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LEASING OF FOREST RESERVES.

COMMITTEE ON AGRICULTURE AND FORESTRY,
UNITED STATES SENATE,
Washington, D. C., Monday, February 11, 1907.

The committee met at 2 o'clock p. m.

Present: Senators Proctor (chairman), Hansbrough, Dolliver, Burnham, Long, Latimer, and Frazier, of the committee.

Present, also, Senator Carter and Senator-elect Dixon, of Montana; Hon. James Wilson, Secretary of Agriculture; Gifford Pinchot, esq., Chief Forester of the Department of Agriculture; Overton W. Price, esq., Associate Forester, Department of Agriculture; Dr. B. T. Galloway, Chief of the Bureau of Plant Industry, Department of Agriculture.

Present, also, Messrs. A. E. De Riques, of Denver, Colo.; J. M. Boardman, of Helena, Mont.; T. W. Gray, of Gunnison, Colo.; C. E. Ayer, of Dixon, Wyo.; C. W. Martin, of Carlsbad, N. Mex.; Robert Taylor, of Casper, Wyo.; E. J. Bell, of Albany County, Wyo.; W. H. McKittrick, of Arizona; T. J. Walsh, of Helena, Mont.; J. M. Wilson, of Wyoming; H. A. Jastro, of Bakersfield, Cal.; F. M. Stewart, of Buffalo Gap, S. Dak.; Martin Garm, of Sugar, Idaho; Will C. Barnes, of Las Vegas, N. Mex., and a number of others.

The committee thereupon resumed the consideration of the agricultural appropriation bill.

The CHAIRMAN. Gentlemen, we have met to-day for the purpose of hearing the sheep and cattle and forest-reserve men. Please bring forward your first speaker. We want to make the hearing as brief as possible. We had the bill all ready to report Thursday. We have waited since that time for you, and the pressure of business is great, so we wish to get through with the matter so as to submit our report to-night, if possible; but we want to give you a fair hearing. I do not know the members of your committees, but we are ready to hear the first speaker.

Dr. J. M. WILSON. Mr. Chairman, we have arranged for a discussion of two sides of this matter, and we would like to ask the committee to give us so much time. The parties in favor of the leasing system are to speak first, and as I am on the other side, I do not see any of them here yet. I do not know, in fact, who has been selected to represent the other side.

Mr. A. E. DE RICQUES. Senator, there are three committees here. One is the committee that has been appointed by the President, at the suggestion of the stockmen, to meet with the Public Lands Committee. The second committee is the committee of sheep growers, who have come here to present their side of this argument. The

third committee is the committee of the American National Live Stock Association, representing eight States. There is one gentleman here from each State. We want to be just as brief as possible in this matter.

The CHAIRMAN. Do you make the first statement?

Mr. DE RICQLES. I am the chairman of the grazing committee of the American National Live Stock Association.

The CHAIRMAN. And you wish to make the first statement?

Mr. DE RICQLES. I am making the first statement.

STATEMENT OF A. E. DE RICQLES, ESQ., GENERAL MANAGER OF THE AMERICAN LIVE STOCK AND LOAN COMPANY, OF DENVER, COLO.

Mr. DE RICQLES. I beg to present here, sir, a statement showing who the members of the American National Live Stock Association are. It is made up of 33 associations, consisting of about 7,000 stock growers, who are in the main small stock growers. This association, at its last convention in Denver, passed a resolution in regard to these grazing matters, of which I beg leave to present a copy and leave it on file as representing the sentiment of the association.

May I read this resolution?

The CHAIRMAN. Certainly.

Mr. DE RICQLES (reading):

Resolution unanimously adopted at the tenth annual convention of the American National Live Stock Association, held at Denver, Colo., January 23, 1907.

Be it resolved, That the American National Live Stock Association in convention assembled does heartily indorse and approve the plan of the National Administration to classify and put the grazing and unoccupied public land under the control of the Department of Agriculture for grazing purposes, under some system of lease or grazing permit, protecting the interests of all concerned and working an injury to none: And be it further

Resolved by this convention, That we respectfully request the President of the United States to appoint a committee of practical stockmen from the States and Territories where the land is situated to confer with the Department of Agriculture and the Public Lands Commission as to the most equitable and effective law to be passed on this subject.

A true copy.

T. W. TOMLINSON,
Secretary American National Live Stock Association.

The following is the list of members of the association referred to by Mr. De Ricqles:

List of associations, members of American National Live Stock Association.

[Name of association and one principal officer.]

American Berkshire Association, Frank S. Springee, secretary, Springfield, Ill.

American Hereford Cattle Breeders' Association, C. R. Thomas, secretary, 221 West Twelfth street, Kansas City, Mo.

American Short Horn Breeders' Association, John W. Graves, secretary, Union Stock Yards, Chicago, Ill.

Arizona Cattle Growers' Association, G. L. Coffee, secretary, Globe, Ariz.

Arizona Wool Growers' Association, E. S. Gasney, president, Flagstaff, Ariz.

Bijou-Muddy Cattle Association, R. M. Schaefer, secretary, Deuel, Colo.

Cattle Growers' Association of New Mexico, W. C. Barnes, secretary, Las Vegas, N. Mex.

Cattle Sanitary Board of New Mexico, W. C. Barnes, secretary, Las Vegas, N. Mex.

Cattle Raisers' Association of Texas, ———, secretary, Fort Worth, Tex.
 Cattle and Horse Protective Association, District No. 9, H. M. Smith, treasurer, Fort Lupton, Colo.
 Cattle and Horse Growers' Association of Colorado, F. B. Johnson, secretary, Denver, Colo.
 Corn Belt Meat Producers' Association, H. C. Wallace, secretary, Des Moines, Iowa.
 Converse County Cattle Growers' Association, Douglas, Wyo.
 Delta County Live Stock Association, J. H. Halley, president, Delta, Colo.
 Fremont County Stock Association, of Wyoming.
 Gunnison County Stock Growers' Association, L. H. Easterly, secretary, Gunnison, Colo.
 Inland Registered Breeders' Association, W. A. Linklaterr, secretary, Pullman, Wash.
 Kansas State Live Stock Association, George Plum, secretary, Emporia, Kans.
 Kern County Cattle Growers' Association, F. G. Munger, secretary, Bakersfield, Cal.
 Kern County Wool Growers' Association, L. B. Olsee, secretary, Bakersfield, Cal.
 Montana Stock Growers' Association, W. G. Greibb, secretary, Helena, Mont.
 Middle Park Live Stock Association of Wyoming, Laramie, Wyo.
 Nebraska Stock Growers' Association, E. M. Searle, secretary, Lincoln, Nebr.
 North Park Cattle Growers' Association, Jas. McFarlane, president, Hebron, Colo.
 Park County Cattle Growers' Association, Samuel Hartsel, secretary, Hartsel, Colo.
 Platte Valley Cattle Association of Colorado, B. J. Deffey, president, Collbran, Colo.
 Pikes Peak Cattle and Horse Growers' Association, R. S. Husted, secretary, Cripple Creek, Colo.
 Snake River Cattle Growers' Association of Colorado, C. E. Ayer, president, Dixon, Wyo.
 Sheep Sanitary Board of New Mexico, Harry F. Lee, secretary, Albuquerque, N. Mex.
 Southern Utah and Northern Arizona Cattle Men's Union, D. H. Morris, secretary, St. George, Utah.
 Washington Live Stock Association, F. M. Rothrock, secretary, Spokane, Wash.
 Western Slope Wool Growers' Association, W. P. Ferguson, secretary, Montrose, Colo.
 Western South Dakota Stock Growers' Association, F. M. Stewart, secretary, Buffalo Gap, S. Dak.

Mr. DE RICQLES. Now, Mr. Chairman, I wish also to file with you another little pamphlet showing the resolutions passed by the Arizona Cattle Growers' Association in regard to this same matter. It is very brief.

(The resolution referred to is as follows:)

Resolutions adopted at the meeting of the Arizona Cattle Growers' Association, held in Phoenix, Ariz., November 16, 1906.

As members of the Arizona Cattle Growers' Association, we favor an equitable, just, and proper Government supervision of the open range—a supervision that, when set in operation by an act of Congress and proclamation of the President, will be automatic and perpetual—opening and closing at set periods of its own accord, until all of the range country be exhausted by homestead entry; and if leasing permits on the range are to be granted, favor the issuance of the same for at least ten-year periods on a per capita basis.

It is the sense of this association that for the modification in any sense of any district when once established, as to boundaries, area, or the issuance of an order to vacate the same, that the initiative for such change shall remain always with those to be affected.

We heartily concur with the National Live Stock Association in its resolution that the range rights of present users of the grazing area, as determined by priority of occupancy and present use, shall be carefully safeguarded, and we most earnestly urge that in the law for range supervision Congress shall make it the duty of range reserve officials to enforce the live stock laws of the State or Territory in which the reserves are established, so long as such laws do not conflict with the Federal laws.

We believe that in fairness between States and Territories Arizona should be given the same rights that are enjoyed by New Mexico, viz, the privilege of selecting lieu sections for the school sections that are on forest reserves, be they surveyed or not.

We extend to the United States Chief Forester, Gifford Pinchot, our hearty approval of the practical manner in which he is handling the question of grazing on the forest reserves of Arizona.

In view of the unjust and thoroughly unfair freight rates on the transportation of cattle now existing within this Territory, which, we believe, are a great detriment to the best development of the cattle industry, we urge the appointment, by the Arizona Cattle Growers' Association, of a committee of five for the purpose of bringing before the Interstate Commerce Commission, in the proper manner, the necessity of an early reduction and adjustment of the discriminating freight rates on cattle now existing within this Territory.

We unanimously indorse the action taken at Kansas City, October 9, 1906, by the conference committee of the American National Live Stock Association, relative to the extension of foreign markets for our surplus live stock and meat products.

As funds will be necessary for the protection of the interests of the cattle growers of the Territory, that the Cattle Growers' Association be empowered to assess its members for necessary funds, which assessment shall be levied in proportion to the live stock assessed in the respective counties in such amounts as assessed in each county where said stock is located.

It is the sense of this meeting that the stockmen on each forest reserve shall form a local association and appoint the necessary committee to take advantage of Regulation No. 69 of the Forest Service, which states that:

"Whenever any live stock association whose membership includes a majority of the owners of any class of live stock using a forest reserve or portion thereof shall appoint a committee for such purpose, an agreement on part of which committee shall be binding upon the association, such committee, upon application to the Forester, may be recognized as an advisory board for the association, and shall be entitled to receive notice of proposed action and have an opportunity to be heard by the local forest office in reference to increase or decrease in the number of stock to be allowed for any year, the division of the range between different classes of stock, or their owners, or the adoption of special rules to meet local conditions."

We recommend that the president of this association appoint representatives of this association to confer with forest reserve supervisors in order that cattle men may receive equal rights with sheep men on the reserves.

It is the request of the Arizona Cattle Growers' Association that the committee on legislation use their best endeavors in the passage of a law (in the next session of our legislature) prohibiting the holding of roping contests in the Territory of Arizona.

We indorse the action of the live stock sanitary board and the Territorial veterinarian as to the temporary intention of the slaughter fence in Cochise County as a safeguard against infection from adjoining Sonora ranges.

The committee on legislation and the live stock sanitary board be, and they are hereby, requested to bring to the attention of the United States Department of Agriculture the desirability of testing the value of Burbank's spineless cactus as a cattle forage on Arizona ranges.

The Arizona Cattle Growers' Association has had in the past reason to appreciate the valuable services rendered it by Hon. Joseph H. Kibbey, then the legal adviser of the association, in ridding the Territory of cattle rustlers and in assisting this association to a sound and permanent standing in the Territory, and it has been with pleasure and gratification that this association has noticed the manly and honest conduct of Governor Kibbey since his appointment as governor of Arizona in seeing that the laws of the country are enforced equitably to all the people of the Territory, irrespective of classes; and especially does this association appreciate and commend the action of the governor in the enforcement of the tax laws of the Territory, so that the burden of taxation may fall equally upon the large as well as upon the small taxpayer of the Territory; and we hereby extend to Governor Kibbey our earnest support in the policy which he has and is pursuing as governor of Arizona.

We request the Arizona live stock sanitary board to appoint the various supervisors of forest reserves now located within the Territory as live stock sanitary inspectors, that the cattle growers of this Territory may obtain the best possible cooperation of the very effective organization of the Forestry Bureau.

We indorse the practical and efficient administration of the Territorial live stock sanitary board and the energetic and thorough work of the Territorial veterinarian.

The Arizona Cattle Growers' Association fully appreciates the good work done by the Arizona ranger force within our Territory. Crime is less frequent within the Territory than ever before, life and property are now almost absolutely secure, and the professional criminals have been driven from our Territory, and we are now enjoying a greater freedom from crime than any State in the Union, and we petition the next session of our legislature and our governor not to reduce the ranger force at the present time.

We heartily approve the objects of the Cooperative Live Stock Commission Company, whose operation we believe is of unquestioned benefit to cattle growers.

Here is one by the South Dakota association:

RAPID CITY, S. DAK., December 28, 1906.

Be it resolved by the executive committee of the Western South Dakota Stock Growers Association, in regular meeting assembled at Rapid City, S. Dak., this 28th day of December, 1906, That we heartily favor the enactment by the Congress of the United States of such laws as will enable the Government, through the Department of Agriculture and the proper officers thereof, to lease all the unoccupied public lands of the United States for grazing purposes, such leases to be granted only to actual bona fide residents of the State in which such lands may be so located, and under such restrictions and qualifications that actual settlers and small owners may have ample protection and proper privileges, the said leasing to be under rules and regulations promulgated by the Department of Agriculture. We firmly believe that the enactment of such a law would be to the mutual advantage and benefit of both the Government and the settlers, resulting in revenues to the Government and rendering legal the use of the public ranges for grazing purposes by the settlers of the State where such lands are located.

Be it further resolved, That it is the sense of this association that we respectfully ask the assistance of our Representatives in Congress to the end that such a law may be passed.

Be it further resolved, That the Secretary of this association is hereby directed to forward each Member of Congress from South Dakota a copy of this resolution.

The CHAIRMAN. If these are perfectly identical, is there any occasion to print them all in the record, or can you merely say that they are similar resolutions?

Mr. DE RICQLES. They show the sentiment of the country. I do not want to burden the record, but they show that sentiment.

Our committee consists of eight gentlemen, one from each of the different States, and I do not think they will want more than five minutes apiece, simply enough to get up and express to you, if you desire to hear it, the sentiment that they represent.

For myself, I will briefly say that the stock growers of our country look at this question as one that has to do with the settlement of the different States and the development of the country, and with the food supply—that is, the meat that we are going to have to eat in the future, because if the rangers are left in their present condition and abused, it will only be a very short time before we will not produce any more fat live stock.

I will make one more statement, and then I will sit down.

Senator DOLLIVER. Is there any bill pending here that you are in favor of?

Mr. DE RICQLES. We are in favor of the Burkett bill.

Senator LONG. There are two Burkett amendments. Which one do you appear for?

Mr. DE RICQLES. The amendment, I believe, Senator, that carries with it the provision attaching this to the agricultural appropriation bill. That is what we are asking to have done.

Senator LONG. There are two of those amendments, both introduced on the 6th of February.

Mr. DE RICQLES. I think Mr. Pinchot, the Forester, has the amendment there, and he would like to see it pass your committee.

Mr. PINCHOT. It is the short amendment.

Mr. DE RICQLES. The short amendment—yes, sir. If you will allow me, I will make a short statement here which will show what we want, and then I will sit down.

Twenty million cattle in the western country—now, that is a big number—twenty million cattle that will average in weight 1,000 pounds each are worth \$100,000,000 more to the western people and

to the nation than 25,000,000 cattle (that is, 5,000,000 more cattle) that only weigh 800 pounds each. We would prefer to raise 20,000,000 cattle that weigh a thousand pounds rather than 25,000,000 cattle that weigh 800 pounds, or 30,000,000 cattle that weigh 600 pounds. If such a condition is brought about, it will put the production of this meat supply in the hands of the small growers.

Senator LONG. Do I understand that this amendment is in the interest of the small farmer?

Mr. DE RICQLES. Absolutely. The big stock grower, when this bill passes, must practically go out of business. Now, I personally am a large grower of live stock; but we have an interest that is a larger interest to us, namely, the furnishing of money to the small stock growers; and I will give you my word of honor as a gentleman that I have had 200 letters, at least, during the last year from our customers, who are small stockmen, having from 100 to 200 or 300 cattle or sheep, as the case may be, saying, "For God's sake get something to change the condition of the public range. We can not live. These illegal fences have been taken down, or are going to go down. There is no place for us to pasture our cattle. We can not hold them at home, and unless something is done we will have to go out of the live-stock business."

Senator DOLLIVER. How have they been feeding these cattle?

Mr. DE RICQLES. The range has been deteriorating, and they have countenanced pastures which the people really do not own. You see what I mean. I could explain it by saying that these settlements are along the rivers, and the breaks of the river are broken land, worthless for agricultural purposes, but good grazing land; and these men have in the past and up to the present time held these lands on the breaks by fences, although it was land that practically they did not own. Since the forest reserve has been put into effect under the Secretary of Agriculture and Mr. Pinchot and Mr. Potter—the men that have made great friends in the West by their splendid administration of this thing—it has changed the sentiment out there. There is a gentleman sitting over there—Mr. Ayer, from Snake River, Wyoming—who is one of a number of small men who, when this thing started out, was absolutely afraid that it would put him out of business. Now he is the strongest champion of the thing that there is in the country, because he has seen that it has been a success. It has enabled him to keep his cattle at home and have a little grazing land around his homestead and his own farm; and that is what we are here for.

Senator DOLLIVER. You want to extend this forest-reserve scheme to the general public domain?

Mr. DE RICQLES. I want to extend the grazing system to the public lands, organizing districts as it goes along where people want it and where it is necessary, under the Government, and have them pay a small fee for it, and give a man a title to it. That is my desire.

Senator LONG. In what way does this affect the homesteader, the man who wants to make a home on the public domain, under the homestead law?

Mr. DE RICQLES. I think it affects him favorably, because if he comes there he is assured a piece of land to run his cattle on, while at present he is not.

Senator LONG. And he has to pay for that privilege?

Mr. DE RICQLES. Certainly; just like anybody else.

Senator DOLLIVER. Suppose a man wanted to homestead a piece of land that had been set apart under a lease to some cattleman?

Mr. DE RICQLES. As I understand the bill, it provides, or is intended to provide, and we would like to see it provide, that anybody who wishes to settle in there should have the right to settle, under the homestead law or any other law of the United States.

Senator LONG. It has a provision to that effect, and it also has this provision, that it shall not be construed to prevent bona fide settlers or residents from grazing their stock used for domestic purposes on the public lands affected thereby.

Mr. DE RICQLES. Yes, sir; that would simply give him the right to graze his milch cows or work horses on that land without expense.

Senator LONG. Are they to pay for that privilege?

Mr. DE RICQLES. No; there is no fee for that, as I understand it.

Senator LONG. So the word "free" should be inserted there?

Mr. DE RICQLES. I imagine so; yes, sir.

Senator PERKINS. Does that conflict at all with the railroad lands adjoining the forest reservations? As you are aware, they have alternate sections.

Mr. DE RICQLES. I think it would affect the man who owns the railroad land and uses the other land free.

Senator PERKINS. What is that? Will the railroad companies lease the lands? Do they lease them?

Mr. DE RICQLES. I suppose the railroad companies lease these checkerboard lands to people along the railroads who use them for grazing, and they, in a large number of cases, are able to control the public land without any payment.

Senator PERKINS. Yes; that was my impression.

Mr. DE RICQLES. And it will probably reduce the value of the lease of the railroad lands.

Senator PERKINS. And make more valuable the Government land?

Mr. DE RICQLES. Why, certainly. It makes more that you can absolutely control, but it prevents the usage of the land by the holding of one piece without fee.

Senator DOLLIVER. Is there any limitation upon the amount of land which should be included in any one lease?

Mr. DE RICQLES. I believe the idea was to have the law operate in various ways as a permit, perhaps not leasing the land at all, but allowing a man to run his cattle or his sheep on the land by the payment of so much, or leasing it outright. In Nebraska it would be essential to lease the land, probably, while in Arizona they would not want to lease it at all. They would want a permit to run. The difference in the country would bring about the class of legislation or regulation that was most appropriate. It is not so much a matter of legislation as of regulation. This is something you have got to regulate; you can not legislate about all of it.

Senator LONG. This amendment practically turns the thing over to the Department of Agriculture to conduct, under such rules and regulations as the Secretary may provide.

Mr. DE RICQLES. Now, if I may make a little statement about that: The stockmen on my side of the question believe that it would be almost impossible to make a law right at the start that would cover

all the sides of this question, and that by doing this and giving them a year or two years' experience, possibly, in the operation of this matter, they could legislate immediately as the solution of the proposition was presented to the Department.

Senator DOLLIVER. As a matter of fact, the Chief Forester now is renting land and charging so much per head for cattle and sheep to graze upon the forest reservations?

Mr. DE RICQLES. Yes, sir.

Senator DOLLIVER. You propose to apply this to all unoccupied and nonmineral lands, do you not?

Mr. DE RICQLES. After they have created grazing districts, but not to apply it until those districts have been created, which would be largely at the consent of the people who live there.

Senator FRAZIER. You propose to leave it to the Secretary of Agriculture to say as to the amount of land that may be leased to any particular individual, and what he shall pay for it?

Mr. DE RICQLES. Or the number of cattle to be run on it, so as to protect the country—so as to get the most out of it.

Senator PERKINS. There is one of these committees present that is opposed to this system, is there?

Mr. DE RICQLES. Yes, sir.

Senator PERKINS. Then we will hear them.

Mr. DE RICQLES. There are other members of the American national committee from the different States that perhaps could present this matter a great deal better than I could; and if you wish me to I should like to give the names of the committee to the secretary.

The CHAIRMAN. Yes; we shall be very glad to hear them, but we will ask them to avoid repetition. There is no occasion to merely repeat the same testimony over and over.

Please name your next speaker.

Mr. DE RICQLES. The gentleman right beside you, Senator—Colonel Lockhart.

STATEMENT OF COLONEL LOCKHART, OF COLORADO.

Colonel LOCKHART. I will state, gentlemen, that I live in southeastern Colorado. The conditions there are like this: They have been using the open range in that part of Colorado for a great many years, and the people have turned their cattle and sheep out and occupied this Government land until the range has gotten into such a condition that it will not support cattle or sheep with profit to anyone; and a large portion of the citizens of that particular section of the country have gone out of the business. Many of them have sold their cattle out at auction; and a great deal of development is taking place and has been taking place for a few years along the rivers, particularly the Arkansas Valley—for instance, in the section that I live in, where the sugar-beet industry has obtained to a great extent, and where there are a great many sugar-beet factories now in operation. That has brought about a very thick settlement of the country along these irrigated portions of the country; and the public domain having been utilized to such an extent that it has been denuded of grass, these people desire that the Government shall control the public domain leading out into the arid plains from these populated sections of the country, so that each man may be allotted some

portion of the public domain at a reasonable rental for the use of his cattle or his sheep.

Senator DOLLIVER. To be fenced?

Colonel LOCKHART. Yes, sir; to be fenced; or in certain districts where there is a thick population to do as the forest-reserve people do. They permit a fence to be erected upon a certain area, and then each man pays so much a head, where the holdings are very small.

In other portions of our country the conditions are different. There are great mountains and arid plains and valleys where the water is very scarce. Of course there is no settlement out in that section of the country and could be none except by some persons who would use it for grazing alone and not for agriculture. In a case of that kind we expect that some such regulation as is now in force by the forest-reserve people would be put into effect, and there the rental would be by the acre, so that one man would be allotted so much and another man so much, and the entire area of the public domain would be occupied in that way.

Senator LONG. Are homesteaders taking up that part of Colorado at the present time?

Colonel LOCKHART. Yes, sir.

Senator LONG. Quite rapidly, are they not?

Colonel LOCKHART. Quite rapidly; considerably so. That is, the part particularly contiguous to this area that has been developed by irrigation.

Senator DOLLIVER. What effect on the rights of these homesteaders would this have?

Colonel LOCKHART. We expect that if a law is passed, such as the American National Live Stock Association suggests, it would be a great benefit to the small holder. It would aid the settlement of the country.

Senator LONG. In what respect? Would it encourage homesteading?

Colonel LOCKHART. Yes, sir; I think so.

Senator LONG. In what way?

Colonel LOCKHART. For the reason that every man now homesteads out there on the public domain, and he has no assurance that a big cattleman or a big sheep man is not going to drive right up in sight of him and eat up all the grass that is contiguous to the land that he takes up; while if he was allotted 320 or 640 or 2,000 acres he could utilize that for his cattle or his sheep, and he would have a permanent means of gaining a livelihood.

Senator DOLLIVER. That applies to the homesteader that is already there; but suppose the new fellow should come in and find these cattlemen in peaceful possession of an area in which he desired to plant a homestead?

Colonel LOCKHART. It is designed that such a man shall have the privilege of going in anywhere.

Senator DOLLIVER. Would not public opinion there be a little adverse to his homestead rights?

Colonel LOCKHART. Not at all, sir. They are all encouraging the homesteader. The big fellows are trying to get their lands off onto the homesteader, as a matter of fact.

Senator PERKINS. As a matter of fact, is there not an irreconcilable conflict between the cattle men and the sheep men generally?

Colonel LOCKHART. Not in the particular section where I am.

Senator PERKINS. It is generally so, is it not, sir, through Wyoming and Utah and Nevada? I know it is in California.

Colonel LOCKHART. No, sir. There are places in Colorado where they unite and are having no trouble at all about the forest-reserve regulations.

Senator PERKINS. "How pleasant it is for brethren to dwell together in unity," is it not?

Senator LONG. In the past has there not also been an irreconcilable conflict between the homesteader and the big cattle men?

Colonel LOCKHART. I presume there are instances of that kind.

Senator LONG. Especially in eastern Colorado and western Kansas.

Colonel LOCKHART. Yes, sir. I think that there are plenty of times when the big cattle man has turned his stock loose on the range—for example, near Las Animas, Colo., where one outfit brought Tarasas cattle from old Mexico to the extent of 25,000 head and turned them loose without any water. They had no claim on the open range; they simply turned them loose, to the detriment of the small holder everywhere; and this is designed to prevent just that sort of thing.

Senator LONG. There has been some complaint that a homesteader coming into a large pasture that has been inclosed has not been encouraged to the extent that you now state here in order to take a homestead.

Colonel LOCKHART. That is quite true, Senator, at times.

Senator LONG. He has not been welcome, in other words?

Colonel LOCKHART. He has not been welcome.

Senator LONG. This bill is designed to help the homesteader?

Colonel LOCKHART. Yes, sir; we believe so.

STATEMENT OF J. M. BOARDMAN, ESQ., OF HELENA, MONT.

Mr. BOARDMAN. Mr. Chairman and gentlemen, Montana is somewhat divided on this question; but what I think all we men of Montana most earnestly desire is a permanency and a stability to the business and the settlers and residents of Montana and the stock producers of the State.

This is a question that has been up before and under consideration for a good many years, and it has been a question of how to settle it with the greatest good for the greatest number. We have seen and experienced yearly the excursions of the sheep men that have no permanent abiding place. They drift from one county to another, almost from Wyoming to Montana. They drift clear across an entire county; and I and hundreds of other men that have been in the stock business in Montana have seen a sheep herder with nothing but a wagon go up against a little homesteader and home maker that has nothing but 160 acres of land, settled upon a little spring or stream, and the herder would camp in the shade of the man's barn or in the shade of his house and allow his sheep to eat off every spear of grass that was in sight upon this little homesteader's 160 acres. Now, what we most desire is a protection for the men that are trying to make homes, and also a protection to the industry as it now exists in Montana.

Senator FRAZIER. You say he would allow his sheep to eat off the 160 acres?

Mr. BOARDMAN. Yes, sir.

Senator FRAZIER. Do not the laws of that State protect a man in his right to his real estate? Would that not be a trespass upon his property, and be a violation of the law?

Mr. BOARDMAN. Yes; but if he has no title to it—he may be simply a squatter.

Senator FRAZIER. I thought you said he was a homesteader.

Mr. BOARDMAN. He is a homesteader; but I mean before his land is surveyed. We have, unfortunately, many thousands and millions of acres in Montana that are unsurveyed, and a man has nothing but an imaginary corner to define his 160 acres.

Senator DOLLIVER. That man would be left in bad shape when the surveyor came along, too. [Laughter.]

Mr. BOARDMAN. He might; he might find his corners in the wrong place. But we feel in Montana that a privilege of leasing would be more to our advantage and more in accordance with the conditions as they exist there than what might be termed the permit system. We have been up against that also, and I want to tell you, gentlemen, frankly, right here, that every stockman in Montana has been a violator of the law as it appears on the United States statute books in fencing land that does not belong to him. He has not always done it intentionally, but if you want to take the violators of the laws of Montana, take the membership of the Livestock Association, take the taxpayers, the settlers throughout the States——

The CHAIRMAN. That includes yourself? [Laughter.]

Mr. BOARDMAN. Yes, sir; but I have taken the fences down. I was punished for a political offense because I did not agree on a certain question, and I was complained against, and I have had to take my fence down, and I am in that position—my fences are down. But I would like to be so that I could secure by a lease a certain number of acres, whatever might be allowed to us, to run my stock on under fence. I believe that I could get better results out of a less number of stock in an inclosure than I could on the open range.

Senator DOLLIVER. Would it not be better to enable the people to buy these lands in bulk instead of leasing them—opening them to settlement on the basis of giving people enough land if they will pay a reasonable amount for it, or a nominal amount for it?

Mr. BOARDMAN. I think that in many instances, Senator, that would be very good. In others it might not be very practicable, for the simple reason that a poor man can lease at a nominal rental much easier than he could buy the amount of land that he might wish for his business.

Senator FRAZIER. Do you expect a lease at a nominal rental?

Mr. BOARDMAN. Yes, sir; because there are lands there right to-day which, from having been overstocked and overrun for years, are worth only fractional parts of a cent an acre.

Senator FRAZIER. And you want to legalize the taking of these lands practically for nothing, which you say you have heretofore been taking against the law? Is that the position?

Mr. BOARDMAN. Yes; we want to have a legal right—we want to have a legal right to fence in the lands that we might require or think we would require in the interest of the permanency and stability of our business.

The CHAIRMAN. By paying for them?

Mr. BOARDMAN. By paying for them; yes, sir.

Senator FRAZIER. By paying for them a nominal price, he says.

Senator PERKINS. Was it in Montana that Peter French was killed?

Mr. BOARDMAN. No, sir; that was in Oregon.

Senator PERKINS. That was in southern Oregon?

Mr. BOARDMAN. That was in southern Oregon.

Senator PERKINS. His range runs up into Montana, the Doctor Glenn range; does it not?

Mr. BOARDMAN. No, sir.

Senator PERKINS. A range of several hundred thousand acres?

Mr. BOARDMAN. I have been down on Mr. Peter French's range and at his ranch.

Senator DOLLIVER. Is there any other system of identifying these ranges except fencing them—I mean any unwritten code of occupation?

Mr. BOARDMAN. Oh, those things have been defined in a general sort of way sometimes by such plans as the bunching of the range of a certain number of men, but beyond that there has been nothing definite.

Senator DOLLIVER. And has there been heretofore any antagonism between the incoming settler and the occupying claimant of these ranges?

Mr. BOARDMAN. Never in Montana—never. Fortunately for Montana, there has never been any conflict there between the sheep men and the cattlemen. That has occurred in other sections of the range country.

The CHAIRMAN. Senator Frazier speaks of taking these lands at a nominal price. After they have been overfed they are only of nominal value, I suppose.

Mr. BOARDMAN. That is the situation.

The CHAIRMAN. So the rental would have to be a very low one; but according to your idea, by the proper treatment of them, they will improve in quality?

Mr. BOARDMAN. Unquestionably.

The CHAIRMAN. What about the duration of these leases, then? What would you propose? Will the Government have, within a few years, an opportunity to increase the price when the value has increased?

Mr. BOARDMAN. In many instances, Senator, if a man should take up land to-day in Montana, he would have to fence it and allow it to remain idle for a year or two before it would carry any amount of cattle. That is an instance where I say that the land should be rented at a very low rental.

The CHAIRMAN. Has there been any discussion about the length of those leases?

Mr. BOARDMAN. To this extent: That if a man is going to secure any amount of that land where it is in an impoverished condition, and he has to allow it to remain idle for a year or two, he should have time enough——

The CHAIRMAN. To recoup his expense?

Mr. BOARDMAN. To recoup his expense.

The CHAIRMAN. Yes. He has to fence it, too, has he?

Mr. BOARDMAN. He would have to fence it.

The CHAIRMAN. Have you any suggestion to make? What about ten years?

Mr. BOARDMAN. Yes; I was going to remark, further, that of course there is a great deal of the water taken up in Montana; and it is the dry, arid, broken coulees and lands that lie adjacent to these streams and springs that are now occupied by small men that would be used for summer range; and the lessees would necessarily be compelled to construct reservoirs to collect water for the summer use of their stock, which would mean several years of work and considerable outlay in the way of expense.

The CHAIRMAN. But if a homesteader comes on and wants to locate in the center of one of your ranges he must fence his homestead, of course, or it is not of any value to him?

Mr. BOARDMAN. That might in some cases be arranged for in a community arrangement. If there was a large pasture fenced in that was jointly operated by half a dozen men, a man that would come in and take out a homestead could enjoy the privileges of that by paying his proportion of the expense.

Senator PERKINS. What would you call a fair rent, sir, for the land per annum, say, for a lease of ten years?

Mr. BOARDMAN. Why, Senator, that would vary a great deal according to the present condition of the land. The land should all be classified. Some lands would be worth more than others.

Senator PERKINS. The water practically controls the range, does it not?

Mr. BOARDMAN. To a large extent; yes, sir.

The CHAIRMAN. Homesteads would not be taken up for cultivation very much on this territory, I suppose. They would be taken up for stock raising, would they not?

Mr. BOARDMAN. To a large extent they would; although, at the same time, in Montana, as well as in other western States, we are beginning to learn that dry farming can be successfully operated.

The CHAIRMAN. Of course the cultivated lands would have to be fenced?

Mr. BOARDMAN. Yes. There is many a man on the open bench land who at certain seasons can plow a few acres of land and fence it, and keep the stock off, and raise a nice little crop.

Senator LONG. Is there much of what might be termed the water land that has not already been taken up through homesteading?

Mr. BOARDMAN. What is that, Senator?

Senator LONG. Has not much of the water land been already homesteaded in your State?

Mr. BOARDMAN. There is a good deal of that—there is a good deal of it. Yet, at the same time, there is a good deal of land on the benches. We find, too, in Montana that you can get good water out of the bench lands by reservoirs, and a great deal of that is being done in Montana to-day. We are not depending entirely upon the streams to secure water for irrigation purposes, but reservoirs are being constructed in the coulees that drain certain territories to store the water, and they are conducting it to the benches and bottoms below the mouths of the coulees. They are being very successfully operated.

Senator PERKINS. Have you a no-fence law in your State, Mr. Boardman?

Mr. BOARDMAN. A fence law? Yes, sir; we have.

Senator PERKINS. Would not that conflict with leasing the public lands?

Mr. BOARDMAN. Oh, no.

Senator PERKINS. You have to care for your stock, even if there is a no-fence law?

Mr. BOARDMAN. But the trouble of it is now, Senator, that on these open ranges there are no fences excepting perhaps around 160 acres. If a man has a claim of 160 acres in Montana it is a very hard matter for a ranchman on 160 acres with a little bunch of stock to make a living. If he has the right kind of land, he would naturally utilize his 160 acres to provide winter feed.

Senator PERKINS. I so understand it. But you are obliged, under your State law, to protect his ranch, to protect his farm, his location?

Mr. BOARDMAN. By fencing it.

Senator PERKINS. Therefore he can not put in a crop and have it subject to the ravages of these cattle roaming over it at will?

Mr. BOARDMAN. No, sir; he has got to fence it.

Senator LONG. Who would fence it; the homesteader or the cattleman?

Mr. BOARDMAN. Oh, the man that owned the homestead would have to fence it himself.

Senator LONG. Would not a homesteader be a serious inconvenience in one of these large ranges—his coming in and taking a homestead after you had leased it from the Government?

Mr. BOARDMAN. We used to think so, Senator; but we are all fast coming to the belief that the development of our country depends upon the settlement of the country, and we want to encourage legitimate home makers and home builders in Montana.

Senator LATIMER. What do you mean by a fence law? Do you mean that the crop must be fenced or that the stock must be fenced?

Senator PERKINS. What I mean is this, if you will pardon me: That a man that has cattle has to keep them off that land whether it is fenced or not.

Senator LATIMER. Well, it is the same way if he has not any cattle. Would he not have to fence his home farm of 160 acres?

Mr. BOARDMAN. Senator, allow me to correct you. In North Dakota they have what they call a herd law, but they do not have to fence there, and consequently a man that has got stock has got to keep it off from a homestead.

Senator PERKINS. That is the California law also.

Mr. BOARDMAN. That is the California law also.

Senator LATIMER. He has to fence his stock and the other man does not have to fence his land?

Mr. BOARDMAN. Yes; in Montana.

Senator LATIMER. That is a no-fence law.

Mr. BOARDMAN. In Montana we have a law that a man has to fence his homestead or his holdings.

Senator PERKINS. That is where I misunderstood the law in your State as contrasted with ours in California.

Senator LATIMER. Why would he not have to fence his land to

make a crop when the law requires that stock should be kept off, in case he has no stock of his own?

Mr. BOARDMAN. The law does not require that, Senator, in Montana.

Senator PERKINS. You misunderstood my question. Of course that is different from what it is in the Dakotas and what it is in California and what it is in some of the other States. With us, a farmer is not obliged to fence his land, and if cattle commit depredations upon it the owner of the cattle is liable for the damages.

Senator LATIMER. That is the case in South Carolina, too. Now, what do you say is the difference in the situation in Montana?

Mr. BOARDMAN. We have a fence law under which if a man wants to keep stock off from his homestead or whatever amount of land he has a title or right to he has to fence it.

Senator LATIMER. And the cattle may run at large?

Mr. BOARDMAN. The cattle may run at large.

Senator LATIMER. On any land that is not fenced?

Mr. BOARDMAN. On any man's land that is not fenced.

Senator PERKINS. There is no inducement for a man from South Carolina to take out a homestead in Montana under those conditions. He had better come to California.

Senator LATIMER. We have the old system in South Carolina; where the cattle run out we fence the farm. That is what you have to do up there?

Mr. BOARDMAN. Yes; we have to fence the farms up there to keep the cattle off. If a man puts in a crop and wants to preserve it, he has got to fence it.

The CHAIRMAN. If there is nothing further, we will hear the next speaker, Mr. Gray, of Colorado.

STATEMENT OF T. W. GRAY, ESQ., OF GUNNISON, COLO.

Mr. GRAY. I am from the high mountain section of Colorado, in the western part of the State—the extreme high mountain section, among the very small cattlemen. The conditions there are these: We are all small. There is not a man in our whole section of western Colorado that you can term a large cattleman as compared to the men of New Mexico and of Montana, because it is very seldom that we run across a man down there that has even a thousand head of cattle.

Now, the conditions are these: The valleys are settled. Everything is done by irrigation. We can raise our hay, and most of us have to feed our cattle through the winter. We have the mountains and the forest reserves for the summer range. Now, they bring in sheep from Utah by the train load and the train load, and they drop right onto us fellows up there in the mountains, and we have either got to fight for a living or we have got nothing. Now, those are the actual conditions.

Senator LONG. Which do you do?

Mr. GRAY. Which do we do? Ask the history of the criminal courts of Colorado. [Laughter.] We have taken care of ourselves. We are small. We have built that country, and we are going to take care of it.

I want to tell you what occurred when I left home. About twenty-five of the boys came down to the train, and they just spoke this way: "Now, try and do something, if you can, to give us our homes and

law and order." That is the condition in western Colorado. It is simply the home builder that needs protection, absolutely, right there; and I am among them.

Senator PERKINS. And you think an act of Congress permitting the Government to lease you the land is in the interest of law and order and good government?

Mr. GRAY. We in that section of the country prefer what is known as the permit system. I want to explain that point, and I am very glad you brought it out. The permit system will work very much better for this one reason: We have to turn our stock out away down on the low foothills in the spring of the year, because the snow has not yet gone off high up on the mountains. We have to turn them all out together. Our ranges are bounded by valleys. We turn them out there; and as the snow goes off—gradually clears away—up in the mountains, in July, August, September, and October, our cattle get clear up to timber line, often going as high as 12,000 feet. If you adopt a lease system in that country—if you leased to each individual a very long, narrow strip up through the mountains, it would be impracticable to use it. We would prefer a community interest, where 15 or 20 or 25 of us could have a permit to run so many cattle in there, bounded by natural streams——

Senator LONG. And no sheep men allowed. [Laughter.]

Mr. GRAY. Well, there are not any there, as has been said a number of times; the altitude is too high.

Senator LONG. It is not healthy for them?

Mr. GRAY. It is not healthy.

Senator DOLLIVER. But that can be regulated by the Department?

Mr. GRAY. It can be regulated by the Department. It is regulated upon the forest reserves, and it was a godsend to us when we got the forest reserve there.

Senator DOLLIVER. I wish you would get somebody to make a statement to that effect in the Senate.

Mr. GRAY. Well, I can do it. [Great laughter.] I am doing it right here.

Senator PERKINS. I wish Senator Heyburn was here.

Mr. GRAY. I know these conditions, because I have been there for over thirty years.

Now, if there are any further questions, I shall be glad to answer them.

Senator DOLLIVER. Would there not be a considerable competition among your own people as to their individual rights on this great mountain side?

Mr. GRAY. There would be comparatively little in western Colorado; and I will explain why. We can only handle so many cattle in that mountain section that we can feed through the winter. It is the home of the small cattlemen. We raise awfully good cattle, just as fine cattle as come to any market, but we can raise but few in number. We have to feed through the winter. We are limited to what we can feed, many of us.

Senator FRAZIER. Where do you get the feed from?

Mr. GRAY. We raise it in the valleys by irrigation. Most of these valleys are all settled.

Senator FRAZIER. Is that on homesteads or is it on Government land?

Mr. GRAY. It is their land, land that has been homesteaded. It is almost all patented now. It was all taken under the homestead law. The land I have I took under the homestead law, myself.

Senator LONG. The homesteader does not go up on the mountains?

Mr. GRAY. Very little—simply because it is pretty high, for one thing, and for another thing, you can not get level land enough after you leave the valleys.

Senator LONG. It would not interfere with his health to go up there, would it?

Mr. GRAY. No, sir; it would not. In the few places they have taken it, I tell you, we have welcomed them; and I want it so that under any circumstances the homesteader will be protected when he goes into any section of that country. Place anything around him that you want to give him protection.

Senator DOLLIVER. Do you think the ranchmen in the valleys would encourage people if they desired to take a homestead on the mountain side?

Mr. GRAY. Yes, sir; it is being done. I want to provide it in any shape it can be done that way, so as to make it strong for the homesteader—to support him in any form that you might see fit.

Senator LONG. Do you want him to pay for grazing, then?

Mr. GRAY. Why, most assuredly, when we pay for ours. We have homesteaded, and because we have homesteaded a few years ahead of him and gotten land a few years ahead of him, is there any reason why he should be exempt ahead of us? Let him pay his proportion.

Senator DOLLIVER. Is there any unwritten law among you there as to what amount of mountain range goes with a valley homestead?

Mr. GRAY. No, sir; we simply turn out, and under the forest reserve we get permits there. There is ample range for what stock can be raised if you can keep out the big herds of sheep. There is an unwritten law as to big herds of sheep. [Laughter.]

Senator LONG. How large must the herd be before the unwritten law applies?

Mr. GRAY. Well, 10,000 dropped in once. They did not take that many out. [Laughter.]

Senator LONG. No; I presume not.

Senator PERKINS. Is there much of the public domain fenced in your State, sir?

Mr. GRAY. None at all, sir; hardly any in that section. I will tell you what is fenced. There are just a few little pastures for horses for a round-up—just simply 20, 25, or 30 acres in a place now and then—and comparatively little of that. We are perfectly willing when the snow goes off to remove those fences, but we can not comply with President Roosevelt's order now, because if they send anybody out there now they will find those fences clean under under 10 feet of snow. It is impracticable to get them off at the present time, on account of the big snowfalls in the mountains.

(By direction of the chairman, Senator Warren thereupon read aloud the following letter:)

THE WHITE HOUSE,
Washington, February 11, 1907.

MY DEAR SENATOR WARREN: In accordance with our recent conversation, I am very glad to send you this short statement of my position regarding Government control of the range.

I am fully in accord with your view that the local control of the range should be in the hands of western men familiar with stock raising, and I believe in full local participation in the management of the range. Of course you must not divide responsibility to a point where you can hold no one responsible, but cooperation between the stockmen and the Government officers is absolutely essential.

The grazing fee should be a small one, and especially so at first. I am not anxious that the Government should get a net revenue from grazing on the public range, but only enough to pay for administration and improvement, and any surplus might well go to the States and Territories in which the fees are collected.

As soon as a bill for range control is passed, it goes without saying that such control should not be taken hurriedly, but gradually, as grazing districts can be organized. There is one prime essential in this policy of range control—the homesteader must be protected in his right to create a home for his family, and he must have whatever range rights are necessary for that purpose.

At present it is unlawful to fence the public domain. All fences unlawfully maintained will have to be taken down. Unless Congress takes action to legalize reasonable and necessary fencing through Government control of the range, there will be a very serious loss to stockmen throughout the West, whose business in very many cases can not be conducted without fencing, and this loss will often fall hardest on the small man.

I can not consent to a clause continuing for a year, or for any length of time, the present illegal fencing. The utmost I will consent to, so far as my power extends in the matter of legislation, is to continue such fences as in my judgment it is right and proper for me to continue. My first care is for the homesteader and the small stockman.

The opposition we have to our proposal now comes primarily from the big men who graze wandering flocks of sheep, and who do not promote the real settlement of the country. These are the men whose interests are diametrically hostile to those of the home maker, who wish to eat out and destroy the country where he desires permanently to live, and who, when they have thus ruined the land of the homesteader and small stockman, move elsewhere to repeat the process of devastation. Many of the sheep men who are permanent dwellers in the land sympathize with our movement. Others, unfortunately, sympathize with their nomadic brothers, the ultimate result of whose actions is to destroy the country. It must be distinctly understood that the opposition to the proposed measure for Government control is opposition aimed at the interests of the home maker, of the homesteader, of the small stockman, of the large stockman who desires that the country shall become better and not worse, and that it is in the interest only of those who think that by continuing the present system they will be able to monopolize an improper portion of the public domain, and who are quite indifferent as to whether in the long run they destroy it.

Sincerely, yours,

THEODORE ROOSEVELT.

Hon. F. E. WARREN,
United States Senate.

STATEMENT OF C. E. AYER, ESQ., OF DIXON, WYO.

Senator LONG. What is your business?

Mr. AYER. I am a ranchman and a homesteader. I homesteaded the land on which I live, and I have lived in that neighborhood now for a little over eighteen years.

Our conditions there are similar to Mr. Gray's, but we have two elements to contend with. We have the large stockman as well as the sheep man; and we have a territory, the Red Desert, where it is a fine winter range, and cattle can be turned down there in the winter time and come out without any loss in the spring, and we, as small ranchmen, are afraid to let our cattle go down there, because if there should come a hard winter we would lose them, and consequently we keep them home. In the little valley where I live there are probably 20,000 head of cattle; we have an association of about 80 members, and there are men that own from 10 and 12 head up to 1,000 and, I guess, 1,500, that are members of that association.

Last year we had the Park Range Forest Reserve that has been organized, and this last summer we got permits to graze our cattle on that forest reserve, and we are well pleased with the manner in

which it was done. But the whole territory not being forest reserve, it does not protect us in the spring and in the fall and in the winter; and while we could get along fairly well as far as the winter part of it is concerned, the spring and fall range we must have, because we can not feed our cattle on the forest reserve in the spring and in the fall. We can feed them in the winter time; and these large herds of steers will come in there, ten or twelve thousand head, belonging to one man or one company, and they are just about as big a detriment to us as the large herds of sheep. We have had some trouble with the sheep men, but I am glad to say that in the last summer, owing to the control of the Park Range Forest Reserve, we did not have any trouble at all; and we are well paid for what it cost us for our permits, 20 cents a head, in not having to have any scraps with the sheep men.

I believe that is about all I can say.

Senator LONG. How do the sheep men like the arrangement?

Mr. AYER. Why, it seems, from what I have heard, that they do not like it.

Senator LONG. How do the homesteaders get along? How would they fare under this legislation?

Mr. AYER. Well, I might say this: That if I could get, under a Government permit, sufficient range for 100 head of cattle at the present time—that is, pasture that I can fence in or a range that I can control 100 head of cattle in at the present time—as fast as my herd will increase I will increase the grass on that land sufficient for my increase of stock, and I would be well satisfied; and that is the way that it should work with the homesteader. If he can take up 160 acres of land that he can raise hay and grain upon and also get control of sufficient range to pasture during the grazing season the stock that will eat up his feed in the winter time, I am satisfied that if he started in with 100 head as fast as his herd increased he could increase the grass that grows on this public range in proportion to the number of the increase of his cattle.

Senator LONG. Suppose that shortly after you got that range leased from the Government under this bill a homesteader should come in and take a homestead right in the middle of your range. Would not that interfere seriously with your lease?

Mr. AYER. It would; but then we are all glad to have him come in, because as fast as the country is homesteaded up it increases the value of our homesteads. The Commonwealth is improving, our taxes are divided among more people, we have less tax to pay, and any man would be foolish to object to more settlers coming in.

Senator PERKINS. Do you not think the large cattle companies would absorb the small settlers?

Mr. AYER. They would if it were sold; but if it is under a permit system or under a leasing system I do not see how it could be done.

Senator LONG. Would it not discourage homesteads within these large leased pastures?

Mr. AYER. I do not think it should, because if a man was to go now and take up a homestead, what encouragement would he have to go into the cattle business? He could not go into it to save his life. He would turn out in our neighborhood a small bunch of cattle, a dozen or 15 or 30 head of cattle to start with, and he might get the most of them back in the fall, but a good many of them would drift

into these large herds in the lower country. But if he had it so that he could fence in a piece of land or get a community interest so that he could fence in the entire range that was occupied by that community he could stop these cattle from getting away from him. They would not get down below and maybe die in the winter time; and it seems to me it would be an encouragement to the homesteader.

Under the present system he comes in there—and I can tell you in our immediate neighborhood of lots of men that have come in there and taken up land under large ditches that have been built and have been raising hay for two or three years past and have got these haystacks piled up on their land with nobody to sell their hay to, simply because they did not have the cattle, and they were not encouraged in buying them. They could not go to somebody and say, “Here, I want to borrow some money to buy some cattle with.” The first question the parties they went to to borrow the money from would ask would be, “Why, what have you got? Where is your range?” “Why, I have got all this part of Rock County here.” “Well, how are you going to control those cattle?” He could not say he could control them in any manner. They would get away from him. But if he had a tract of territory that he could fence in and lease it or get a permit to range his cattle there, he could say to these parties that he wanted to borrow the money from, “Why, I control this range; I have got this in addition to my homestead, in addition to what I have got homesteaded, and am raising hay on.” That would be an additional security. There would be nothing in the world to hinder that.

Senator DOLLIVER. In point of fact, do people now occasionally take up a quarter section in these great pastures?

Mr. AYER. I do not know anything about that. We have no great pastures in our country. It is all open. There is no illegal fencing there at all.

Senator DOLLIVER. I refer to the public domain occupied by these herds.

Mr. AYER. It is all public domain.

Senator DOLLIVER. Do your homesteaders now go in there and try to get a quarter section of their own in the middle of these pastures?

Mr. AYER. Why, certainly; every year they are homesteading it up from the mountains, and lots of good homes are being established there. People are coming in there and taking up land that I would not have given a snap of the finger for five years ago, and they have nice homes, and they are happy.

Senator LONG. Do they have any friction with the large cattle men?

Mr. AYER. No, sir; not the least bit.

Senator FRAZIER. Have you any fence law in your State?

Mr. AYER. Yes, sir; we have a fence law.

Senator FRAZIER. Does it require the homesteader to fence his land?

Mr. AYER. Yes, sir; he has to fence his land.

Senator FRAZIER. So if he went inside of one of these pastures, for which you had a permit or a lease from the Government, he would have to fence it?

Mr. AYER. He would have to fence up his own land.

Senator FRAZIER. To keep your cattle out?

Mr. AYER. Yes, sir; and if he came in there, and it was a lease system, he would have to fence the land that he had leased, of course.

Senator FRAZIER. If he had located a homestead, though, within your lease, then he would have to fence his homestead or he could not——

Mr. AYER. Under the fence law of Colorado he would have to fence a certain part of it.

Senator DOLLIVER. Ought not this law to provide that one of these homesteaders should have a preferential right in the land adjacent to his homestead, at least in these community ranges or in the lease system?

Mr. AYER. Yes, sir.

Senator DOLLIVER. So that if there were a number of people applying for the right to pasture upon a given territory, the man who was there with his family should by no possibility be excluded from his right and interest in it?

Mr. AYER. No, sir; he should have the same rights that he has under the present system of forest reserve.

Senator LATIMER. Would you be willing for a provision to be inserted in the bill that would allow a homesteader to go on any piece of land that was leased, at any time?

Mr. AYER. Certainly; at any time.

The CHAIRMAN. It is so stated in this amendment.

Senator LATIMER. I wanted to find out whether he agreed to that proposition or not.

Mr. AYER. I certainly would, at any time. As far as the lease part of it is concerned, it ought to be regulated for a term of years, so that if a man leased a piece of land he should have it for a certain period; but it ought to give the homesteader the preference all the way through, the same as the operation of the forest reserve.

Senator DOLLIVER. But you would expect the forestry people to determine how many cattle should go upon a given area?

Mr. AYER. Yes, sir; somebody ought to do that.

Senator DOLLIVER. Now, suppose there were more people applying for an interest in this community range than could be admitted. Ought there not to be a specific provision that whoever is excluded from it——

Mr. AYER. Should be the larger owner.

Senator DOLLIVER. The homesteader should be the first man taken care of?

Mr. AYER. That is right; yes, sir.

Senator LONG. Should he be permitted to range his cattle within this leased area free?

Mr. AYER. He should be permitted, I should think, to range his domestic stock, his work horses, and milch cows, but outside of that——

Senator LONG. Free?

Mr. AYER. Yes; but outside of that he should pay the same as anyone else should pay.

The CHAIRMAN. Is there anything more from this witness? If not, we will call on Mr. Martin, from New Mexico.

STATEMENT OF C. W. MARTIN, ESQ., OF CARLSBAD, N. MEX.

Senator LONG. What is your business?

Mr. MARTIN. I am in the cattle business, sir.

The CHAIRMAN. These speakers are all members of your association?

Mr. MARTIN. Yes; I am a member of the American National Association.

The CHAIRMAN. Go on with your statement, Mr. Martin.

Mr. MARTIN. In the first place, sir, I want to plead guilty for myself and all our neighbors. We are in a scope of country there in the southeast portion of New Mexico which will average about 100 miles in distance east and west and about 300 miles north and south. There is not a drop of surface water in that whole territory. We have all got our wells and reservoirs, and as to the fence business, we have had lease fences there for twenty-five years.

Senator DOLLIVER. You have had what?

Mr. MARTIN. We have had lease fences built through that country every 30 or 40 miles, running east and west from the Pecos River to the Texas line. Wherever there is a fence we have had fences there for the last twenty-five years.

Senator LONG. On the public domain?

Mr. MARTIN. On the public domain; but very little of it has ever been surveyed. Most all of it is unsurveyed.

Senator PERKINS. Are there not large Spanish grants in there?

Mr. MARTIN. No, sir; there are no Spanish grants. It is all what we call Uncle Sam's domain; it is free land.

Senator LONG. And the fences have been there for twenty-five years?

Mr. MARTIN. Yes, sir; except that about one year, about four years ago, a special agent came there by the name of Mr. Hobbs, and he spent, I guess, two or three days driving over the range. He issued orders then to take all those fences down and roll them up and move them off of the public domain. I can safely say that there was about 90 per cent of those fences taken down and rolled up. We hired men to build us a machine and fasten it on a wagon, and we rolled up something like a thousand miles of fence and piled it up around our camps.

Senator PERKINS. That is, wire fences?

Mr. MARTIN. Yes, sir; wire fences—single-post wire fences.

Senator LONG. Did you take down the posts?

Mr. MARTIN. Yes, sir; he made us pull up the posts and move the fences entirely off the Government land. Well, we undertook to run the business one winter and one summer without the fence. The result was that the cattle commenced to drift in the winter time. I am about 20 miles from the south line of New Mexico, and I can safely say that there were as many as 40,000 cattle that drifted and bulked up on that line of fence between the Pecos River and the Texas line. I was there myself, and we had from 40 to 50 men and at least 500 head of horses trying to move that bulk of cattle back and scatter them out at our wells where they could get water. There was no way for them to get water except at the wells that we have sunk on those claims. The result was that we figured that we lost about from 30 to 40 per cent of our cattle. There is a man here in the room that I have been selling my cattle to for the last fourteen years; he was here a while ago, Mr. De Ricqles. That spring he came to buy my cattle, and he cut the price of them \$5 a head. He had paid me \$15 for my yearling steers for twelve or fourteen years, and twenty for my twos. My cattle were in the same condition with

everybody else's; and he only paid me \$10 for the yearlings and \$15 for my 2-year olds.

We just thought that we had to get out of the business, or do something. So we worked a scheme and got a law passed over in Santa Fe to allow the commissioners' court to build a string of fence along the public roads. The authorities there, the commissioners' court, have the authority to lay off roads anywhere in the Territory; so we kind of laid them off every 30 or 40 miles. [Great laughter and applause.] And those fences are there to-day. And if we men have to do what the President says we have got to do—and I don't believe he would lie to us—we have got to get out of the business or have some relief. We have got to have a lease law, or we have got to have a drift fence law, or something that will enable us to control our cattle. There are all of 280,000 cattle in that strip that I am speaking of; and if there is any cow man here who knows what they will do on the plain where there are no breaks—there is nothing in the world that will stop them but a barbed-wire fence. They will go from 50 to 100 miles in three days and nights; and that is the condition we are in. Those fences are still up, and if they take them down we have got to get out of the business.

Senator LONG. The same wire and the same posts that were taken down?

Mr. MARTIN. Well, sir, mighty near all the same. As soon as we got that law passed, we got busy [laughter] putting fences along the roads. There is no use in our not pleading guilty, because they are going to come there and see what we have got, and I am going to tell the truth. I have been in the business forty years. I was born and raised in Texas, and we never had any peace and we never had an animal that would sell for anything like a reasonable price in Texas until we got a lease law, and now we have got as good cattle as they have in Missouri or anywhere else.

Senator PERKINS. You attribute your loss of 30 or 40 per cent wholly to removing the fences, and not to the drought?

Mr. MARTIN. The drought had nothing to do with it. I will tell you, Senator; I branded 2,100 calves on my ranch during the year before these fences were taken down. The next year I branded 802 calves, and never sold a she animal, and that was about the condition that all my neighbors were in.

The CHAIRMAN. It resulted in a tremendous loss to all of you?

Mr. MARTIN. Yes, sir. We can't run it three years without going broke. We have got to get out of that business if we do not get relief.

Senator PERKINS. I want to ask this question for information: Where these wells were sunk, and you had your crops in, why would your cattle leave those wells, even if the land was not fenced?

Mr. MARTIN. When a storm comes up from the north there and the wind commences to blow, every animal you have got for 200 miles starts from the wind in the winter time.

Senator PERKINS. What is the altitude of this land? How high is the land there?

Mr. MARTIN. Well, Senator, it is pretty high, and it is as level as it can be. It is a regular desert, you know. The Pecos River runs on the west side of us. For 90 per cent the Pecos River on each side is under cultivation. They have taken it up, and it cuts our cattle

off from the river, and we are very glad of it. It is very fertile land there; but there is not a drop of surface water unless it rains. And I want to say another thing about those sheep men: I never see a sheep man and I never see a sheep until it rains and puts a little water out close to my ranch; and then they will come in there, with a Mexican or two, and they will stay until that water gives out, and then they are gone. I do not know where they belong, or anything about it; but there are no sheep out in our country. It is a little too high for them.

Senator DOLLIVER. Are there any unwritten regulations among your people as to how many cattle are entitled to go on these pastures?

Mr. MARTIN. All we ask a man in the world, when he comes in our country, is to dig him a well and get water and put him in some good bulls and act the gentleman and he is at home with us. [Laughter.] That is all we have got to say to any man.

Now, you are talking about the little settlers: We have got some settlers there, and we have got a post-office there, and the cow men buy everything in the world they will raise, from a watermelon up. We want them in there. If they can come in there and make a living, we want them—all of us.

Senator LONG. Is there any law about the sheep men coming in there?

Mr. MARTIN. None in the world, sir.

Senator PERKINS. But, as a matter of fact, it is no place for homesteaders; it is only fit for cattle?

Mr. MARTIN. Well, sir, there are some little groves in that country where there is shallow water and good soil, and homesteaders are taking it up. We have a good school there close to me, with about 20 or 30 settlers. There is a little grove there, and you can get water from about 50 feet to 100 feet. They are trying to make a living there. It is a pretty hard struggle, but they may do it.

The CHAIRMAN. I guess you will do it.

Mr. MARTIN. I think they will; I hope they will.

**STATEMENT OF ROBERT TAYLOR, ESQ., OF CASPER, WYO., AND
F. ADMAH, NEBR.**

Mr. TAYLOR. I am from both States, gentlemen.

The CHAIRMAN. Please give us your views about this matter.

Mr. TAYLOR. Well, Senators and gentlemen, a good deal of the ground has been covered. I can only speak from an experience of thirty years in the stock business, reaching from California into Wyoming, Montana, and Nebraska, and covering all kinds of stock—sheep, cattle, goats, horses, and hogs. That is what experience I have had.

Excepting in the case of my Nebraska holdings, all these years I have been a partaker of Uncle Sam's bounty on the open range; and I want to say in a few words that, looking back over these thirty years, I see a trail of blood from California—from the Pacific coast almost to the Missouri River. This is within my personal knowledge. I have seen assassinations; I have known stock to be killed and maimed and destroyed, and I have seen property destroyed and a spirit of lawlessness engendered among the stockmen that I think is a menace to any good government or any good nation.

That has been my experience, and, therefore, although I have been a participant in the benefits, such as they are, of the free-range system

for years, I have always contended that the only safe and sane plan was to have these ranges controlled. That is my position.

If you wish to ask me any questions regarding the different States I will be glad to answer them. I am a believer in this system; that is all I can say.

Senator PERKINS. You have had such a varied experience in all of these States that you must be familiar with the railroad grants. What relation will they bear to the Government land in leasing this land?

Mr. TAYLOR. The railroad grants?

Senator PERKINS. Yes; they having the alternate sections, does not that embarrass the Government in making proper leases to protect you or others who are desirous of leasing this land?

Mr. TAYLOR. I will say about that that wherever there has been, in my experience, any leasing done by the State or any parties owning the land it has always been a success and a settlement of all troubles. In the State of Wyoming the Union Pacific Railroad, which owns the great bulk of the 20-mile strip on each side through there, leased, a few years ago, its lands to two county associations of woolgrowers—the Carbon County Wool Growers' Association and the Sweetwater Wool Growers' Association. They rented this land at a very low rental, 1 cent per acre, the renters knowing that they would get, under our Wyoming laws and usages, the full use of the Government land inside; because I want you to understand that while cattle are free comers and can be turned out in Wyoming, anything that is under the control of man, like sheep, is trespassing when it goes onto anybody else's land. That is the law.

Senator PERKINS. You have had a varied experience in all these States. The reason I asked you the question was this: Some years ago, about 60 miles west, I think, of Ogden, Crocker took a big tract of land that belonged to the railroad company and started his son and a man by the name of Taylor. They stocked it up, and it was stated to me at the time that no homestead settler would go within 50 miles of where they were; their cattle would run them off. That is why I asked you the question about that.

Mr. TAYLOR. No; I remember—I know about that case; about the circumstances of Crocker getting that railroad land; and these railroad lands in Wyoming have been leased very successfully and settled all kinds of trouble.

Senator PERKINS. They were railroad lands in Utah?

Mr. TAYLOR. Yes, sir; but the railroad lands in Wyoming are largely leased now. They are largely leased, except in places where they have been bought.

Senator DOLLIVER. Have you examined this bill that is before us?

Mr. TAYLOR. There have been some amendments suggested to it, Senator.

Senator DOLLIVER. Would you have any objection to an amendment providing specifically that in the allotment of these leases or permits to use pasture lands which are adjacent to lands occupied by homesteaders or bona fide settlers, the preference shall in all cases be given to such homesteaders and bona fide settlers?

Mr. TAYLOR. I think that is the proper thing, according to my idea. I would agree to a proposition of that kind as being the proper thing.

STATEMENT OF E. J. BELL, ESQ., OF ALBANY COUNTY, WYO.

Mr. BELL. Mr. President and Senators, in order to make myself more plain to you I will have to define my location in life. I am in the cattle business and also in the sheep business, and I am proud to say that I am in the farming business also.

Possibly if I were endowed with the power to express myself I might impart some information on this subject that you have here before you. One thing that discourages me just a little bit is this: We had a meeting this morning with the Land Commissioner, and after we had a hot discussion up there the Land Commissioner stated that they had already passed their opinion before we came here. If that is the truth, it would discourage me in this case from telling you what I think about this. If you want to hear the matter as I understand it, I will give you my views of it; but I would hate to have you, after we get through here, inform us that it had all been decided before we got here. That would be a very discouraging feature, after we have come here.

The CHAIRMAN. No, no; go on, Mr. Bell. The committee has decided nothing.

Mr. BELL. That is all right, then. I wanted to be understood plainly on that point. That actually occurred this morning.

The CHAIRMAN. In fact, we have not considered it.

Mr. BELL. That is all right.

It is a happy thought to start out with, to have made peace with these three combinations in our country. To be a farmer, a cattleman, and a sheep man to me is perfectly easy. It works in perfect harmony in every sense of the word. I believe that a great many men draw upon their imagination in this respect, and state things that do not exist. You would infer from what you have heard and understood from these cattlemen that the sheep men are the most awful men in the world. I do not believe that is so. Neither is the cattleman an awfully bad man in our country. We get along first-rate in the business. I am not alone in this business in our section of the country. In our county we are at peace and harmony in every sense of the word, both farmers, sheep men, and cattlemen.

I believe, if you want the facts as they are, that there is a vast difference between our section of the country and other parts of Wyoming, and that in the event that you ever pass a leasing law you would have to know all these facts and these conditions that exist. I believe that it might be to your interest, so that you could deal fairly with all.

First, in our section, should you ever pass this leasing law, I believe our land in Albany County—and I say this with some degree of pride, living there, as I do—is worth a cent and a half an acre or possibly two cents an acre; but I do believe that in other parts of Wyoming the land would not be worth over a quarter of a cent or half a cent an acre at the most. If the sheep men in that part of the country understood that you people, if you ever pass a law, would act accordingly, in justice to these conditions that exist, I do not believe that you would find so much opposition about this leasing proposition.

Now, I will quote to you a little circumstance: We feel that we are small. I feel that I am awfully small. Not one man in this house has ever been as poor as I have been and broke as many times as I

have been broke. But I have accumulated quite a little holding of land out in that country. We bought it; we own it. We bought it from the Union Pacific Railroad Company, and we are using the alternate sections, and we are doing it at peace; and I am perfectly willing to continue doing that if you will let me. But if you see your way clear, and in the interest of our great country feel that you ought to lease these lands I want to say to you that I am perfectly willing to pay a reasonable price for it.

Now, what is that reasonable price? We have decided to segregate our large holdings, as you might call them, as some of them would say. We own between thirty and forty thousand acres of range land. That does not include our hay and farming land. We are now parting with that in this way: If we have sold a man 2,500 sheep, or expect to sell them to him, we sell him 5,000 acres of land. We assume that he is going to use the other 5,000 acres of the Government land; and we figure that by providing 100 tons of hay for the winter he can safely run 2,500 sheep on 10,000 acres of land. Now, these are facts. I brought some of the contracts here, but I left them at the hotel. I would have brought them up here if I had known anything about this matter coming up in this way.

Now, we figure that we are in the very best part of Wyoming—I ought to be perfectly safe in saying this—in Albany County. But if it will take 10,000 acres of land there—5,000 belonging to the Government and 5,000 belonging to ourselves—to run 2,500 sheep, I do feel that it is safe to say that it would take 40,000 acres in other parts of Wyoming to run 2,500 sheep. I believe there are men here that will bear me out in that statement—sheep men, too; and I believe that if you do pass this law, if you see it to your interest and to the interest of the people at large to pass this law, that you must take into consideration these conditions, and it is only fair. I think Mr. Pinchot in a measure will agree with me on those things. He has been giving these things his personal inspection.

Senator LONG. This proposition is simply to turn the matter over to the Secretary of Agriculture and let him determine the price that should be charged.

Mr. BELL. I am frank to say to you, as I have said before—and I was conscientious in it; if I was mistaken, it was an error of the head and not of the heart—that I think it is a mistake. I really believe that.

Senator LONG. A mistake to do what?

Mr. BELL. It is a mistake to leave as big a proposition as 400,000,000 acres of land in the hands of so few people. I believe that. I do not believe that if they were endowed with the honesty of Jesus Christ, and the fairness that he had, they could satisfy the people.

Senator LONG. Are you acquainted personally with the Secretary of Agriculture?

Mr. BELL. Yes, sir; and I will tell you that I want to say—I do not know; who is the Secretary? Let me see. Who is he?

A GENTLEMAN. Secretary Wilson.

Mr. BELL. Secretary Wilson—I have every confidence in God Almighty's world that one man could have in another in Secretary Wilson; but I will say this: One of my missions here is to do that as much as this; and I am going, before I get back, to get down on

my knees and beg Secretary Wilson and Mr. Roosevelt to make us a visit and see what we are doing in an agricultural way in Albany County, Wyo., this year.

Senator DOLLIVER. Whom would you have fix the price—the rental?

Mr. BELL. I believe, in justice to our State—now, you understand that while we are there, we have gone there under some difficult circumstances. We have built ourselves up. Not from a legal standpoint, but from a moral standpoint, we really believe that we ought to have, perhaps, some little rights over some other fellows that would come in. Not against the homesteader, of course——

Senator DOLLIVER. But you do not get my question. You propose that the Government shall lease these lands?

Mr. BELL. Yes, sir.

Senator DOLLIVER. And you have stated that the value of them varies in different parts even of Wyoming?

Mr. BELL. Yes, sir.

Senator DOLLIVER. How would it be possible to enter upon a scheme of that sort unless the power to determine the value of these lands should be conferred somewhere?

Senator PERKINS. The Secretary of Agriculture would naturally consult stock gentlemen like yourself, and get your judgment and that of other stockmen, and be guided by it. According to your statement, sir, some of this land is worth $1\frac{1}{2}$ cents an acre; some tracts are worth 2 cents; other tracts not more than one quarter of 1 cent.

Mr. BELL. Yes, sir.

Senator PERKINS. He would naturally come to you or other gentlemen there and ask for your opinion, or appoint a commission for these different States to pass upon it.

Mr. BELL. Yes, sir. Well, if he would do that, of course we would help him out a great deal. But the fact of the business is that he would find so much variation in our statements out there that he would hardly know who to believe, unless he went over the ground and gave it personal attention. [Laughter.] Now, these are facts, you understand, and I am proud of them. I want to say to you with pride that I never lived in a country in my life where I had a higher regard for the people than I have for the people of Wyoming; and I want to say to you that that will include 99 per cent of them.

Senator PERKINS. Your people are something like the people in my own State—they are color blind when their own interest is concerned.

Mr. BELL. Well, that is true; I agree with you there. That is the fact—that the incentive of a man's own interest makes him partial.

Senator PERKINS. They become color blind; that is all. We mean all right, you know, but we can not see it just the same.

Mr. BELL. I understand; I believe you are all right; I do not take any exception to that at all, and I am not offended in the least. These are facts. [Laughter.]

Senator LONG. Do you think that Congress should make this schedule of charges?

Mr. BELL. Well, Congress, I want to tell you, has made so many mistakes [great laughter] that I would be a little bit afraid to leave it

to Congress [great laughter]. When I say that, I say that in a spirit of love.

Senator LONG. Whom do you think it should be left to?

Mr. BELL. Well, if you will leave that to me—I am glad you asked me that question; I wanted to speak of it, but I did not know just how to get into the subject. I believe that you or Secretary Wilson or Congress could do this: Find out who are the safe men in our country, and let the people who understand the situation out there handle that question in a measure.

Senator LONG. And let them determine what they ought to pay?

Mr. BELL. Let us make the division amongst ourselves in some way or other. That would be my idea of it.

Senator LONG. So you think that if the Government owns the land it ought to let the people out there say exactly what should be done?

Mr. BELL. Sir?

Senator LONG. You think, then, the Government ought to turn over to the people out there who are interested to say exactly what should be done, and the Government should have nothing to do with its own property?

Mr. BELL. No; I do not believe that. You passed what was known as an irrigation bill. It went through—a good one, too, I think. You have appropriated to the State of Wyoming \$6,000,000 to build reservoir sites, two reservoir sites in our State. Now, I am going to say this so that you may understand the attitude of some talk that you have heard here, and some that you will hear, perhaps. Some men believe from the bottom of their hearts that there are not 160 acres of land in the State of Wyoming that a man can make a living on. If that is true—I know they are mistaken; I know that—but if that is true, you have reclaimed land enough so that it would take 3,200 families to take up that land—3,200 families. You know what that means, when you figure it up at four or five to the family, how much of a population that would mean to our State. If that is true, and you expect them to take that land up and pay this Government back this \$6,000,000, at \$35 an acre, which you have allowed, and which the man that takes it up must pay back to this Government, you must make some provision for that man on the outside. If you do not want to give him anything right out, you can give him some of these lands that we are speaking about, so that he can live outside of this 160 acres of land. I think that he can make a good living, you understand, on this 160 acres of land. That is my opinion.

Senator DOLLIVER. With water on it—these irrigated lands?

Mr. BELL. These irrigated lands; yes, sir.

Senator LONG. And you want him to have it as a gift, you say, and not pay anything back to the Government?

Mr. BELL. No, sir; no. This Government never gave me anything on earth, and I have given this Government my time and my services and some of my money, and I am going to keep on doing it. I do not want this Government to give us anything.

Senator FRAZIER. You have been grazing your stock on its land for a good while, have you not?

Mr. BELL. Yes, sir; that is true.

Senator FRAZIER. You have gotten that much from it?

Mr. BELL. That is a fact; that is an actual fact. We have been doing that, and I am going to continue to do it until you stop me.

[Laughter.] These are just open facts. You want the truth about that. We did it, and we thought we were all right, because it has been a practice ever since I can remember those things. I went on the range some thirty or forty years ago. We have been doing that, and it is an actual fact, I am frank to say, that we have been in possession of it so long that if a private individual owned it we would keep it—under our laws, you understand.

Senator LONG. You have not fenced it in, anyway?

Mr. BELL. We feel that we have a moral right on it, anyway. We really feel like that; and I believe we are justifiable in it, gentlemen.

Now, I want to say this to you: That I am spending a good deal of time and a good deal of money trying to make homes for somebody else. I am doing it, and I am proud of it. And to show you, I told you about selling these lots in order that these people may go ahead. They are poor men. We are not selling them to the rich fellows. We are selling them to the poor man, and we are not even asking a dollar from them. We are loaning them the money to buy these 2,500 sheep. I am simply telling you this, so that if it ever comes to a leasing proposition you can get up and try to put it down. One man said something here to-day about 200 or 300 or 400 acres, or a section or two. You can not do any business on a section or two in Wyoming or in Montana or in Arizona. In some parts of Arizona it would take 40,000 acres to run 2,500 sheep.

I believe that if you ever do lease these lands, and want to be fair with the people who live out there, it is not your intention, because you live in North Carolina or South Carolina, as I infer—and that is a rather dear name to me, for my folks originally came from there—the fact of the business is that I suppose you do not want to hurt those people who live out there, do you? You would not want to do anything wrong to ruin those people, would you?

Senator LATIMER. We are just trying to find out what you want.

Mr. BELL. Well, God bless you, then—we are just willing to tell you, if you will let us. That is the idea. I simply want to tell you that you would naturally infer from some statements made here that the cattlemen want it because the sheep men do not want it. I want to tell you, as a sheep man and a cattleman and as a farmer, that at a reasonable price—at a reasonable price, such as we can make a living at, and a sufficient number of acres—I am frank to say to you that I indorse a proposition of this kind. That is, I indorse it if you could just get it in that way and put it in the hands of men who are big enough in mind, who are fair enough to do justice to all of us. The fact of the business is that I have learned to like Mr. Pinchot so much that I have been accused of falling in love with him and asking to have him adopt me. Now, I would be willing to have him adopt me if——

Senator PERKINS. But you are not willing for him to fix the rate he should charge you. [Laughter.]

Mr. BELL. Yes, sir; if he will go through my section of country and find out the conditions there I would be perfectly willing for Mr. Pinchot to fix the rate.

Senator PERKINS. Then we are all satisfied. We are going to leave this to the Secretary of Agriculture, to whom you have paid such a high tribute, after you learned his name [laughter], and he is going to bring our friend Mr. Pinchot in to assist him in advising you

as to the rate you shall pay; and Mr. Pinchot is going to ask you and your other neighbors what is right, and then he will draw his own judgment and conclusions.

Mr. BELL. Well, Mr. Pinchot has been fair to our particular part of the country. We paid 5½ cents for sheep, and we have understood that they will let us go in there for 4 cents this year. We appreciate that, and we think that they are now 2 cents too high. I really believe that, too. But we appreciate what he has done for us.

Senator FRAZIER. The lower he fixes the price the more you like him. [Laughter.]

Mr. BELL. I am frank to say, gentlemen, that I am mortal, and a man can do more with me by being extremely friendly than he can by abusing me. There is no question about that; and the evidence of that is that if Mr. Pinchot does favor me justly—I am not asking him to give it to me—why, of course it would not make me dislike him, would it? There is nothing wrong about that, is there?

Senator FRAZIER. No.

The CHAIRMAN. Is there anything more from this witness? If not, we will hear Mr. McKittrick, from Arizona.

STATEMENT OF W. H. M'KITTRICK, ESQ., OF ARIZONA.

Mr. McKITTRICK. Gentlemen, let me speak first about the northern part of Arizona. The sheep men have taken the northern part of Arizona. There are very few cattlemen left. We have all heard about their troubles, so we will just leave them and go down to southern Arizona, where I live.

Senator PERKINS. Where is Doctor Perrine?

Mr. McKITTRICK. In northern Arizona. His timber claim is up there.

Sometime ago we organized our Arizona Cattle Growers' Association, and we have 250 members, and about every one of the members of this association was in favor of a lease law. In the southern part of the country there are very few settlers—in fact, none outside of the old holders down there, what we call the old ranchers—those that have been there a number of years. People have asked why we want to pay for something that we are now getting for nothing—that is, to pay for the leasing of the ranges. It is for this reason: That during the twenty years that I have been in the business—and I think during the time that most of my neighbors have been in the business—we have not made any money. We have made interest on the money.

The range condition is like this: We will dig our wells, and have steam engine or gasoline hoists, mule power and windmills, and get a nice little herd of cattle together, and some one will come in with a lot of cattle from lower Mexico, or a lot of knot heads—scrub cattle that are of no commercial value—and they will bring their bulls with them, and they will turn those cattle on our ranges with our good cattle, and it depreciates the value of our cattle. Then, instead of settling there and taking up 160 acres, they will go in town and make their home in town. They will not brand their cattle, because they know we have to brand them to keep the thieves out. They never water their cattle, and the result is that pretty soon we are overstocked. We have got to ship our cattle out, and we have got to do

that every time we get a nice little bunch of cattle together; we have to ship our cattle out and sell them for almost nothing. That thing has been going on for almost twenty years, and that is the main reason why we want to pay for our pasture ground. I would rather have a few good cattle than a herd of scrubs, because they bring me more money. I feed them on my own alfalfa ranges at Bakersfield, and I get the weight out of them, and I would rather have a few cattle of that kind than all the scrub cattle that I could get.

Senator PERKINS. You keep them in Arizona until they are between 2 and 3 years old and then bring them up to Bakersfield and fatten them on alfalfa?

Mr. McKITTRICK. Yes, sir.

Senator PERKINS. Do not Haggin and Tevis, your neighbors, go down to Mexico and buy cattle there?

Mr. McKITTRICK. Not Mexico; no, sir. They also have ranches in Arizona and New Mexico.

Senator PERKINS. Who is running the Hearst ranch now?

Mr. McKITTRICK. I do not think those cattle come that way. Do you mean in old Mexico?

Senator PERKINS. Yes. They have a large ranch near Albuquerque.

Mr. McKITTRICK. They are not interested in cattle now.

Senator DOLLIVER. Where is your cattle market?

Mr. McKITTRICK. In California, and part of our steers we sell in Kansas and Nebraska, and some of them go up to Wyoming; but these cattle, mind you, have to go on the ranges. If we had a better class of cattle, we could sell them to the farmer who grows the corn. He could afford to fatten our cattle. Our cattle now are not of a quality to justify selling them direct to the Kansas farmer, or the Nebraska farmer, or the Illinois farmer, or the Iowa farmer, or any of those people. We have to send them out on the range.

Senator PERKINS. Colonel, I thought you owned a Spanish grant in Arizona there.

Mr. McKITTRICK. No, sir.

Senator PERKINS. You do not?

Mr. McKITTRICK. No, sir.

Senator PERKINS. You have been running on Government land, principally?

Mr. McKITTRICK. Yes, sir; and I have not made any money, Senator, for twenty years.

Senator PERKINS. And you are willing to pay rent now if we will rent the land to you?

Mr. McKITTRICK. Yes, sir; so that I can have better quality and fewer cattle.

Senator PERKINS. But, as a matter of fact, Colonel, in the southern part of Arizona, my observation has been—and I have been all down through that country; down to the line between Sonora and the Territory, and through there—that the man that gets the well, the water, virtually controls the range, and it is worth nothing to anyone else.

Mr. McKITTRICK. No; because they simply come in and turn these scrub cattle on you, and you have got to water them and take care of them.

Senator PERKINS. Yes; but if you fence the water you have them.

Mr. McKITTRICK. But you can not do that. You can not starve your own cattle.

Senator PERKINS. I know: but let your own cattle take water, and not your neighbor's.

Mr. McKITTRICK. Oh, yes; but there is only one man in Arizona that tried that, and it was a failure.

The CHAIRMAN. Is he living?

Mr. McKITTRICK. He is living, I am sorry to say. [Laughter.]

Senator PERKINS. Do you mean Mr. Greene, of Greene Consolidated?

Mr. McKITTRICK. Oh, no, sir.

Senator PERKINS. He had a large tract of land there.

Mr. McKITTRICK. He is down on the border.

Senator PERKINS. Yes.

Mr. McKITTRICK. But we have settlers there who do not make—in the twenty years that I have been down there, I do not think that they have been able to raise a crop four years out of the twenty.

Senator PERKINS. Did that Texas railroad grant extend through Arizona?

Mr. McKITTRICK. Yes; that is in the northern part. You mean the old Atlantic and Pacific Company?

Senator PERKINS. Yes. Have you been running on their land, or using it?

Mr. McKITTRICK. Oh, no; I am in the southern part. All of that land is given over to the sheep men. The cattlemen have left it.

Senator PERKINS. The railroad people lease that land to them?

Mr. McKITTRICK. I presume they do.

Mr. HANSBROUGH. You say the settlers have not come in there?

Mr. McKITTRICK. No, sir.

Senator HANSBROUGH. On account of the climate?

Mr. McKITTRICK. It is too dry. You can not raise a crop one year out of five.

Senator HANSBROUGH. Suppose they were coming in, would you welcome them?

Mr. McKITTRICK. We certainly would; men that come in to settle; but not these fellows, maybe, that would come in and turn a lot of these cattle loose on you, and then go back and live in town, as they do, so that the people can not raise crops there.

Senator DOLLIVER. What does the railroad exact as rental for the land it rents to these sheep people?

Mr. McKITTRICK. I do not know. The Southern Pacific has no lands, you know. It is only the old Atlantic and Pacific road, in the northern part of the Territory.

The CHAIRMAN. This completes the list of cattlemen, if there is nothing more from this speaker.

Mr. McKITTRICK. There are 250 cattlemen in Arizona who want fewer cattle and better cattle; and we would rather pay that money out of our pockets, because the price that we could get for good cattle would more than pay the amount we would have to pay.

Senator PERKINS. Do you think, Colonel, that public sentiment through Arizona is in favor of the Government leasing their land?

Mr. McKITTRICK. Decidedly so.

Senator PERKINS. The colonel has quite an extended experience, as he has stated to you, and is also identified with many interests in

California. I think public sentiment is so in California, is it not?

Mr. McKittrick. Yes, sir.

Senator HANSBROUGH. Along the lines of this proposed amendment introduced by Mr. Burkett?

Mr. McKittrick. Yes, sir.

The CHAIRMAN. From the way your cattlemen have presented your case, I wonder how you have avoided being elected to Congress. [Laughter.]

(The representatives of the cattle industry having been heard in full, the committee proceeded to hear the representatives of the sheep industry.)

Doctor WILSON (in response to an inquiry from the chairman). The understanding that we had at noon with your committee was that we were not all to talk, but that only two or three were to present the case, and we have arranged for only two.

The CHAIRMAN. All right; who is the first?

Mr. WILSON. Mr. Walsh, of Montana.

STATEMENT OF T. J. WALSH, ESQ., OF HELENA, MONT.

The CHAIRMAN. You are the representative of an association of sheep men?

Mr. WALSH. I have been delegated, Mr. Chairman, by the chairman of the National Wool Growers' Association, at the request of the president.

The CHAIRMAN. Please state your views about this measure.

Mr. WALSH. Yes, sir. Mr. Chairman and gentlemen, the gravity of this measure which you have under consideration is best appreciated when you reflect that by this legislation which you are now asked to enact you are called upon to reverse the uniform policy which the Government has pursued with reference to its public lands ever since it had any public lands. Ever since the general cession made by the States to the confederacy it has been the uniform policy of the Government to allow the pioneers on the margin to have the benefit of the public lands for grazing purposes free. You are now asked to make them pay for that. That is the situation. And, Mr. Chairman and gentlemen, the matter comes before you rather hurriedly, as it seems to us, in view of the very great importance attaching to this subject.

The other policy, the prevailing policy, is one the reasons for which everybody knows. They have been vindicated by a long course of history. The advocates of this new departure have undertaken to set forth the reasons for it in a preamble to the bill which was introduced by Senator Burkett, of the State of Nebraska. The reasons are in that preamble set forth at some considerable length. Evidently, in making this new departure, it was deemed advisable to invite the attention of the people to the reasons that suggested the change in the practice that had been so long adhered to, and it goes on to set forth those reasons. The very first consideration is the advisability of getting revenue out of the public lands, and that revenue is to be obtained by an application to the general body of the public lands of the system now obtaining with reference to the forest reserves, and, accordingly, the measure proposed by Senator Burkett carries out that idea. The first consideration is to get a revenue, and that revenue is to be obtained by an application of the forest-reserve system to the general body of the public lands.

I inquire of you, sirs, why should the Government desire to get a revenue out of the public lands? It has never pursued that policy before. The Government, as I understand, is not embarrassed at the present time and seeking for sources of revenue to let out some extraordinary expense, and if it were, I submit that it could find many subjects from which the revenue could be derived that would not work the injustice that this system would.

Besides, sirs, upon what principle of justice can the people of the State of Indiana, for instance, or the State of Illinois or the State of Iowa, that have always had the benefit of the adjacent public lands without compensation at all, insist that we shall now pay for that privilege? Until the last vestige of the public lands was exhausted in those various States their people always had this privilege. As you know, it has always been one of the most powerful inducements to emigration to the West. You could take up a piece of land, you could cultivate it, you could raise some cattle, and they could graze upon the public domain, and thus a man got a foothold.

Why, in our State, sir, men have gone 40 miles beyond the usual lines of travel, beyond the railroad lines, beyond the cities, because there they found a small piece of cultivable land, and they could range cattle adjacent to it. Accordingly, it contributed powerfully to the settlement of our State, in all quarters of it.

I submit, gentlemen, that that policy ought not to be overturned. It ought to be continued. And therefore there is no reason why you should seek to derive any revenue, at this late date, from the public lands. But, as a matter of course, taxation is always the concomitant of the derivation of revenue. The taxation, as a matter of course, must be imposed upon the people who use these public lands and who have used them in the past as commons, everybody with the same privilege. What will that taxation amount to? That is a consideration that will naturally address itself to you.

The forest-reserve system is to be applied to the general body of the public lands. Under the existing forest-reserve system, 6 cents a head is charged for grazing sheep upon the forest reserves for five months, from the 1st of June until the 1st of November. As a matter of course, when the entire body of the public lands is put under the same system, you must get the privilege for the entire year; and I apprehend, sirs, that we can not figure that on that basis the rate will be any less than 10 cents a head for sheep for the year.

What does that mean in the State of Montana? There are 6,000,000 sheep in the State of Montana, and at 10 cents a head you will impose a tax upon the sheep industry of the State of Montana of \$600,000. The cattle industries will probably contribute about as much; and so you are asked to impose a tax by this measure, hurriedly gotten up and endeavored to be put through here, of \$1,500,000 a year.

Why, Mr. Chairman, what does that mean? The aggregate revenues of our State government are not equal to one-half of that sum. We have some feeble, struggling little educational institutions in that State—a school of mines, and a university, and an agricultural college; and as it is we can hardly keep them alive.

But, Mr. Chairman, it is suggested that this proposed measure ought to be amended, so that whatever revenue is derived from the leasing of these public lands or the granting of these permits over

and above the expense of administration of the law should be turned into the States in which that revenue is collected. But, sirs, that must have been suggested in irony or thoughtlessly; because what does it mean? It simply means that you levy this tax upon the feeble, struggling stock interests and sheep interests of the State and turn it into the treasury, and to that extent relieve from the burden of taxation and the support of the State government the great mining corporations and railroad corporations of our State.

You can not stand for that sort of thing. You can not impose upon us a tax which will relieve them from the just burden that they ought to bear with us.

But, Mr. Chairman, it is not simply the burden of the tax that will be imposed upon us that makes practically our entire State unanimous against this bill. You have heard from my friend, Mr. Boardman, here. Mr. Boardman is a large cattle owner of our State. You may refer to your records here and you will find that the legislature of our State in 1901 passed a resolution unanimously protesting against the passage of legislation of this character. The Stock Growers' Association, gathered together in that State, have time and time again gone on record as in opposition to it. But here some time ago a score or so of gentlemen met and passed a resolution, Mr. Boardman supporting it, that inasmuch as the Administration apparently was determined to put the public lands under the control of the Secretary of Agriculture or otherwise, we would prefer a leasing system to a permit system.

I would like to say a word with regard to that in a moment; but the point that we make is not so much that it will impose this enormous burden of taxation upon our people, but that it will put our business absolutely under the dominion of the men who are charged with the administration of this law. I can best illustrate to you what that means by referring to the case of our own company.

I happen to be the president of the Riverside Land and Live Stock Company, a director of that company, and also a director of the Clear Range Company. They are both engaged in the cattle and sheep business. It so happens that in the case of the Riverside Company we are obliged to graze our sheep in the summer time on the Big Belt Forest Reserve, and our cattle on the Elk Horn Forest Reserve. We and our predecessors in interest have occupied this range in common with others in that locality for over thirty years, but it was recently included within these reserves, and now, inasmuch as you are asked to apply this forest-reserve system to the entire body of public lands, it may be of interest to you to know something about how the system works in this particular case. Understand, the point I am making is that the business is really taken out of our hands and the absolute control and dominion of it are put in the hands of the officers of the Government.

The question naturally arose concerning privileges upon the forest reserve. We sought these and others sought them. We asked for leave to graze 14,000 sheep on the forest reserve, and we got the privilege to graze only 7,500. Whether we will be given a privilege this next year or not we do not know. Mr. Potter this morning advised me that notwithstanding some unfortunate differences that existed between us last year concerning this matter, our permit will be granted this year. But we do not know. It lies in the power of these gen-

gentlemen administering this law to absolutely refuse us any permit whatever. That would compel us to sell our sheep on the market—17,000 sheep. The property has been gathered together as a sheep plant. If we are obliged to sell our plant, the property becomes practically valueless for that purpose. If we do not get the permit, the value of our entire plant is absolutely cut in two. It means a loss to us of \$50,000 if we do not get a permit.

So that you will observe that every man who goes upon the public domain, who goes out West and endeavors to engage in the sheep or cattle business, must engage in the business or must go out of it, depending on whether or not he can get the permit that he seeks from the Department of Agriculture. And so it is, gentlemen, that I say that the man who is charged with the administration of this work holds in the very hollow of his hand the future of the business of every man who is engaged in the sheep or cattle business in the West and who relies upon the public lands for grazing range. It may thrive under him, or he may put forth his hand at any time and crush it; and under this bill you put the unrestricted power to fix whatever regulations he sees fit, and to fix whatever tax he sees fit.

I have invited your attention to the amount of the tax that will be imposed, provided the forest-reserve system is kept in operation. And it is suggested that the revenue, the excess, will go to the States. But what will the fact be? Through the courtesy of the Forestry Bureau I am able to lay before you the amount of the revenues derived from the forest reserves last year, and what it cost to run them. The aggregate was as follows: Timber sales, \$253,132.22; grazing fees, \$514,086.74; total, \$767,219.96 revenue. Outlays: There were employed in the administration of the reserves 1,059 persons, at a total cost of \$779,519—a deficit of some thirteen thousand and odd dollars.

So that according to the showing made concerning the operation of the system now, it will cost as much to put in the field this army of rangers and district supervisors and riders as it is possible to derive from this source, provided the burden of taxation is no greater than 6 cents a head for sheep.

I called your attention to the consideration of putting the business absolutely in the hands of the officers here. As a matter of course, while we have every confidence in Mr. Pinchot, for instance, who proposes this, and Secretary Wilson, who would have the management of this, those gentlemen are obliged to rely for their action upon the representations of the man who is in the field. They are obliged to act on what the forest ranger tells them. He tells them, for instance, that the range will not bear more than so many sheep. They simply have his representation for it, except such information as they can gather by casual trips over the country. So that you will observe that in all cases it becomes a very important matter, and a large measure of discretionary power is reposed in the minor man.

For instance, in our case it may have been a just determination; it may have been unjust. We asked for 14,000 sheep, and the local man said, "7,500 is all you will be entitled to receive." We were obliged to either dispose of the balance or make provision for them elsewhere.

You will observe that he recommends that; he recommends that distribution. It was said that applications were made for 120,000 sheep, and they did not intend that more than 75,000 should be put

upon the reserve. The point I make is that you will see that there is abundant opportunity for controversy between the parties, and the penalty in every case is that your permit will be cancelled unless you observe the rules laid down.

But now observe, whatever may be done, it is not only the officer who is here in Washington in whom is reposed vast powers under this law, but, as I said to you, the local men in the field, who under the present arrangement gets \$75 a month, I believe, also exercises a vast power. Now, suppose he is entirely honest. Suppose he is only troubled with the ordinary infirmities of human nature. Suppose that, as we often err, he errs in judgment. He is ignorant of important facts. He is swayed sometimes by passion, and he listens to the suggestions of personal friendship, and he is amenable to flattery. You can readily understand what a vast sum of injustices he may do in the distribution of these favors in relation to these matters.

But, as a matter of course, if he is not absolutely honest, the difficulty is vastly increased; and then you hold out, as a matter of course, to everybody seeking these privileges the inducement to resort to corrupt methods in order to get them. We pray that you will lead not the people of Montana into temptation in this regard.

You are all interested, as a matter of course, in knowing our views as to how this system is going to work, as it affects the question of the settlement of these public lands; and, indeed, it is suggested that this reversal of the uniform policy of the Government in the matter ought to obtain now, because the lands still remaining for disposition under the public-land laws are of a different character than those that have been disposed of before; that they are useful or valuable only for grazing; that they will not be taken up to any extent by homesteaders, and that sort of thing. But the very law itself, gentlemen, you will observe, contemplates that a vast acreage of this land will be taken up by homesteaders and others desiring to appropriate them under existing laws, and it makes provision for that; and it would seem as though it was entirely complete and fair. It says that any homesteader can come in. But that is exactly the situation that exists under the forest-reserve system. Under the present forest-reserve system a man may go upon the forest reserve and locate a homestead, but he never does it. He would be foolish to do it, and it needs no argument to tell you why he would not.

It has been said here in the course of this discussion that this bill will induce immigration, because the man who goes upon the public domain will be assured of an opportunity to get land around his place upon which to graze his cattle. How will he be assured? It is not any right that he has. He gets it by the grace and privilege of some one here in Washington, upon the suggestion of somebody who is out in the field, who may or may not be influenced by some of these large cattle companies and sheep companies of which we hear, who have already had privileges all around.

And then, as to the leasing law, gentlemen. A large portion of the argument in favor of this matter—I need not say it at all, it has been evinced here in the course of the argument—a large portion of the support of this measure comes from two sources: In the first place, a great many men want protection against drifting bands of sheep. That is a proper measure. I believe that it ought to be penalized; that the proposition of a man coming from a remote State, or a dif-

ferent section of the State, and grazing his sheep around a man's place, 100 or 200 or 1,000 miles away from where he lives, is wrong; and you can regulate that easily enough by making that thing punishable. But it is also observed that some further support for these measures comes from people who have inclosed large portions of the public domain and are a little bit afraid that they will come into contact with the law of 1885; and they want to have that thing legalized. I have no doubt that none of the gentlemen who have suggested this other measure here are in that situation, but a great many are.

So far as that measure is concerned, gentlemen, that act of 1885 was passed in obedience to the policy to which I have invited your attention of holding out every inducement to people to take up homes on the public domain and to throw no obstacle whatever in their way. I pray you do not do anything to go back on that. That is a wise public policy embodied in that law, and speaking for the people of my State, I beg to say to you that they do not want it repealed and they do not want any temporizing, either, with the enforcement of it. I speak to you, sirs, as one who has had the defense of men charged in my State with the fencing of the public domain, and I advise you, sirs, that any man who is guilty would be wise to make his peace with the Government rather than to take his chances before a jury in our State, for they will convict him if there is any ground at all upon which they can do it. They want every restriction against the appropriation of the public domain by settlers absolutely thrown down and taken away. So that we ask you not to do anything to restrict the operation of that measure.

You will observe, as I said, that a man does not go upon the forest reserve and take up a homestead. And why? He is entitled to take up 160 acres of land in the middle of a forest reserve. If his cattle stray beyond the limits of that 160 acres he is immediately in trouble with the forest-reserve system. And, in addition to the burdens that are upon him in endeavoring to take up a piece of land, he has to pay a tax for the privilege of grazing his sheep and cattle outside of his little limits of 160 acres or he must not graze any at all. And thus it is, Mr. Chairman and gentlemen, that the least little bit of an obstacle put in the way of these men is going to change their opinion, and the man that is earning \$3.50 a day in a mine will conclude to stay at that operation rather than go upon the public domain and take up land.

Another thing: When you come to consider the imposition of this tax upon our people, I beg you to consider, also, that our State stands next to Canada. She stands right there at the border, beckoning these people to her and away from us, and we ask you not to throw any obstacles whatever in the way of those people taking up these vacant lands in our State.

You will also observe that under the leasing system it is contemplated that a considerable portion of the public domain will be leased to a man and he will be entitled, as a matter of course, to fence that land. He will be entitled, for instance, to lease a section of land.

It is said that a homesteader can go inside of his fence and take up a claim right in the middle of it. But imagine for a moment a settler doing anything of that kind. Here is a township of land; there is a little tract of land that is capable of cultivation in the center of that township. A man goes there and he takes up 160

acres and he puts a fence around it; but in order to get any place whatever for his cattle he has to drive them out to the margin of the township, 3 or 4 miles away, and put them through a gate there and put them outside upon the public domain in order to get any privileges at all. Who is there here that imagines that he will do that?

Senator DOLLIVER. I understand, however, that this scheme proposes to admit him to a community of interest in this adjacent land.

Mr. WALSH. True.

Senator DOLLIVER. And, if it is to be leased, to give him a reasonable leasehold in the adjacent lands.

Mr. WALSH. Quite true, Senator, but the lands, I assume, are already leased. Some one has a lease of those lands for ten years and has a fence around them. Some one has a fence around a section with a lease of those lands for ten years. I also assume that he has the privilege of going on the inside of that man's fence and taking up a homestead, but I do not assume that——

Senator DOLLIVER. This bill provides that notwithstanding that lease nothing in the terms of that lease shall interfere with the man's right to enter a homestead within the limits of the lease.

Mr. WALSH. True. I am endeavoring to explain to you that he will not do so, however; because when he goes to a remote section of the country and takes up a homestead he takes it with the idea of using the adjacent public lands for grazing his cattle. Now he takes up a homestead in the middle of the township and is obliged to drive his cattle 3 miles to a fence and open a gate and then put them beyond upon what becomes the public range.

Senator LATIMER. Then, if the grazing is destroyed, so that cattle can not live there, what would be the effect?

Mr. WALSH. As to the grazing in the State of Montana, the number of stock running on the open range is, as a matter of course, lessening every year, and that is because settlers are taking up more and more of the land all the time. Let me continue a thought that I had a moment ago, and if I do not answer your question, I shall be very glad to have you refer to it again.

It is said that these lands are different, and that they are simply grazing lands, and are different from those that could be taken up for purposes of settlement. But as a matter of course that is a matter of cultivation. There was a time when everybody thought that two-thirds of western Dakota and Nebraska and similar States would not be cultivable at all; and I recall very distinctly when I arrived in the country, that over a score of mortgage companies were bankrupted because of unsuccessful efforts to farm that country. Everybody knows that it is farmed successfully now, and that is the great grain-growing section of the country. The extension of dry farming in our State is something that perhaps few of you who are unacquainted with the matter realize. There are vast areas of our State that were taken up less than ten years ago simply for grazing purposes, at a cost of from a dollar to two dollars an acre, that are to-day selling for anywhere from ten to twenty dollars an acre, and are raising crops that will justify it, by the system of dry farming. And now, also, the Department of Agriculture and the agricultural colleges all over the country are engaged in experimenting with drought-resisting forage plants, so that many thousands of other acres that are now considered absolutely useless for the purpose of cultivation

will be made available to settlers. Not only that, but great schemes of irrigation are now being conducted by the General Government within our State for the watering of these lands, by which other settlers will be invited to take up those lands. But as a matter of course, in the course of time, at some time or other a point will be reached where it will be impossible for a man to make a living upon 160 acres of land. But even then, why not induce him to go there and take up that land by permitting him to eke out a small existence by privileges of this kind upon the rocky and mountainous regions of our country?

Senator DOLLIVER. Will you answer a practical question for me just there?

Mr. WALSH. Yes, sir.

Senator DOLLIVER. At present these land companies have a kind of unwritten tenure of these pasture lands; and what show does a homesteader now stand to go into a country occupied by sheep men and cattle people and participate in that pasture?

Mr. WALSH. I am very glad to answer that question, gentlemen. There is not in any part of the State of Montana to which my acquaintance goes—and I am thoroughly acquainted with every corner of it—any place where there is the least sort of resistance or toleration of resistance to a man taking up lands. And I may also say that I have been engaged in the range cattle business myself now for something over eight years, and I am going out of the business simply because the taking up of the lands has so restricted the range that it is no longer profitable to stay in the business.

Senator DOLLIVER. What I want to find out is this: Here is a range that is already overfed by cattlemen and sheep men.

Mr. WALSH. Yes, sir.

Senator DOLLIVER. And here comes along a poor fellow who homesteads a quarter section of it. What possible access to that range that is of any real value to him as a cattle producer does that man have? It is all cropped to death already.

Mr. WALSH. That is simply a supposititious case. There is no portion of the State of Montana that is cropped to death; and manifestly it is just as good range for the man who takes up the homestead as it is for the stock of the cattle company that is engaged in grazing there. If it will furnish feed for the cattle company's stock, it will furnish feed for the homesteader's stock. And so it is, sir, that the land is being constantly taken up; and you can refer to the statistics of the land officers of our State, and confirm the statement that more homesteads are being taken up within the last four or five years than, I believe, ever before in the history of the State. Congress within that period has created two new land districts in our State, at Great Falls and Miles City.

Senator HANSBROUGH. To what extent do these stockmen and those interested with the stockmen induce settlers, poor men, to go on the lands and hold them and prove up on them, in order that they may sell to the stockmen? Does anything of that kind take place?

Mr. WALSH. The records of the Attorney-General's office will show you that prosecutions are being continually carried on in practically all of the Western States for that sort of thing.

Senator HANSBROUGH. Yes, we know that; but I am asking you. You are right from that section.

Mr. WALSH. Yes, sir.

Senator HANSBROUGH. I want to know to what extent, in your observation, this thing goes on, if at all?

Mr. WALSH. Really, sir; the number of people who take homesteads for the purpose of turning them over to anybody is practically trifling. It does not, to my knowledge, speaking as an attorney familiar with that business, obtain to any particular extent in our State. That there are occasions of that character, as a matter of course, I am not undertaking to deny.

Senator LATIMER. There is one point I would like to hear you on. You have stated that the desire of the people of Montana and the western country is to have homesteaders?

Mr. WALSH. Yes, sir.

Senator LATIMER. And it has also been contended——

Mr. WALSH. If you will pardon me, our State legislature has just appropriated \$25,000 for the purpose of advertising the resources of our State, with a view of attracting homesteaders to the State.

Senator LATIMER. I am not questioning that proposition; but, I say, it has been contended by all who have spoken here that the desire is to have homesteaders.

Mr. WALSH. Yes, sir.

Senator LATIMER. It has also been contended that the large number of cattle that range on that pasture destroy the grass, and so it has not an opportunity to reseed itself. The point I wanted you to answer is this: If the Government takes charge of those lands and restricts the pasturage so that the grass can reseed itself and improve the pasturage, would it not have a tendency to cause people to go there and take up homesteads who could secure to themselves pasture for their cattle rather than the present system, which destroys the pasturage? I want you to answer that.

Mr. WALSH. Yes, sir; I will answer that in this way: The fact that there is now a great rush of settlers to our State, taking up these homesteads, would dispose of the suggestion that anybody is kept from settling on our State lands by reason of the fact that the range conditions have been so deteriorated as not to make them any longer an inducement. But I will answer you also with perfect frankness in this: That if you cut our sheep and cattle in two, if you commanded us to sell off half of what we have got, and not raise another cow, and send every other sheep to the market, I will agree with you as a matter of course that there would be more grass on the range. I will agree with you about that, sir.

Senator LATIMER. I thought you stated a few moments ago that the objection to settling in the forest reserve was the fact that the lease would include the land all around and the settler would not have the advantage of the pasture.

Mr. WALSH. Yes, sir.

Senator LATIMER. If the cattle run at large and the land is overstocked, would it not have the same effect, or a worse effect?

Mr. WALSH. Why, the homesteader has just exactly the same chance as everybody else. The new man has just exactly the same chance as the man who has been there for twenty years.

Senator DOLLIVER. Do you indorse the system that prevails at present?

Mr. WALSH. I say, sir, that our people simply ask to be let alone.

Senator DOLLIVER. Now, what is the condition of your company? Are they using the public lands?

Mr. WALSH. We are obliged now to get permits for our summer range. In the winter our cattle are taken within our own inclosures. We feed them in pastures.

Senator DOLLIVER. You get the permits from the forest-reserve division?

Mr. WALSH. Yes, sir; our sheep, however, in the winter time, with the exception of a single band—we get a winter permit for a single band on the forest reserve—the remainder of them at present graze upon the open public range.

Senator DOLLIVER. Has your company fenced any part of that?

Mr. WALSH. There were some fences, including some portions of the public range, made quite a good many years ago by our predecessors.

Senator DOLLIVER. That is said to be in violation of law.

Mr. WALSH. It was said to be; yes, sir.

Senator DOLLIVER. Would you recommend the repeal of the law prohibiting the fencing of the public domain?

Mr. WALSH. Not at all, sir; I pray you, sir, to keep it in force.

Senator DOLLIVER. But men have testified that that would entirely destroy the cattle business, if these fences are removed in all sections of the country.

Mr. WALSH. I am able to testify to the condition in the State of Montana; and I know of no reason why it should in the State of Montana. I will tell you why: It will, as a matter of course, affect the range stock business. That is to say, those people who do not make any provision for their stock in the winter time at all, but simply turn the cows loose and the bulls loose and let them go, as a matter of course want the fencing law repealed; and they want a law which will permit them to fence. But any small owner of cattle who takes care of his stock in the winter time, who raises forage for them in the summer, and brings them within the pasture, feeds them, and simply turns them out on the open range or on the forest reserve in the winter time, does not want the law repealed.

Senator PERKINS. But is it not, as a matter of fact, sir, necessary for the protection of your sheep to have herders constantly with them, both summer and winter?

Mr. WALSH. It is, sir.

Senator PERKINS. As a matter of fact, in the case of cattle it is not necessary, except to round them up at certain times?

Mr. WALSH. We herd both the cattle and the sheep, Senator. We have herders on the forest reserve taking care of our cattle in the summer time.

Senator PERKINS. But where the stockmen, the cattlemen, have their land fenced, they let them run at will there. These gentlemen from New Mexico who testified to-day, as I understand it, do not have herders with their cattle all of the time.

Mr. WALSH. No.

Senator PERKINS. But only in a limited period of time, at certain seasons of the year, when they round them up and brand them, and

cut out those that they send to market; whereas the sheep require constant attention, and every night you corral them?

Mr. WALSH. Yes, sir. That is, as a matter of course, sir, carried on to a very great extent in our State. But I may say in this connection, sirs, that the problem is very rapidly solving itself by reason of these inducements, by the dry farming system, and by the extension of these works of irrigation. Immigration is being induced, and the range business, at least in our country, is a thing practically of the past. As I have said to you, I and a great many other people associated with me——

Senator DOLLIVER. Has the forest-reserve system of leasing worked well in your section of the country?

Mr. WALSH. It has been entirely unsatisfactory, for the reason that I indicate to you. Now, understand, in our community there is not the slightest opposition to the preservation of the forests. Any assistance that any of us can give toward that end will be cheerfully given. But we do, sir, object to being called upon to pay for the privilege that everybody else from time immemorial has had without paying, and we do object simply to putting in the hands of these officers the power to say whether we shall or shall not carry on our business.

Senator PERKINS. You undoubtedly have observed, as every other observant person has, in crossing the continent by any one of the five transcontinental lines, that every few miles you will find a wagon covered with canvas and see a couple of Mexican herders with a couple of shepherd dogs caring for several thousand sheep, grazing on the public domain. Do you think that is right?

Mr. WALSH. I have already stated that I think a law penalizing the drifting of sheep should be passed.

Senator PERKINS. But you know that that prevails to a great extent?

Mr. WALSH. Oh, it does.

Senator DOLLIVER. What is the objection to drifting if you have a right to the public domain, abstractly, and you ought not to be burdened in it? Why not let him go where he wants to?

Mr. WALSH. Well, as a matter of abstract right, I dare say your position about the matter is correct. But if the thing is to be so administered as to give protection to the home builder then you should make these regulations. Mr. Boardman, for instance, makes a very proper complaint, that a man will come from the central portion of the State of Montana—here is the way it works, if I may be pardoned for a moment. A man starts from our section of the country, the middle western portion of the country. He starts out with a band of 2,000 sheep, or he may have two or three bands, aggregating, say, 7,500 to 10,500 sheep, and he simply passes them over the country until he arrives at Dorsey, say, where there is a great big shearing plant, and he shears them, and then he simply goes on and travels on down to Bismarck, where he puts them on the train in the fall and sends them down to Chicago.

Senator DOLLIVER. What is the moral objection to that?

Mr. WALSH. The objection is that it is detrimental to the interests of the home builder.

Senator DOLLIVER. Do you regard a cattle company as a home builder?

Mr. WALSH. Why, no; I do not. A cattle company, with a large body of cattle scattered generally over the public range, if there were no other objection to it than their interest, I do not see why you should do so.

Senator LATIMER. What is to hinder a man going in a community that is a little better off than his, covering it with 1,000 or 2,000 or 20,000 sheep and eating up all the grass upon it so that his neighbor could not have any at all?

Mr. WALSH. There is not anything.

Senator LATIMER. Under your system or your idea of conducting it?

Mr. WALSH. That would be prevented by legislation, as I said, preventing him from driving his sheep beyond his headquarters for a certain distance.

Senator LATIMER. No; but he does not drive, he simply carries his sheep right around with him. [Laughter.]

Mr. WALSH. Why, of course those are all matters of detail which should be regulated, and I would not undertake at this time to suggest as to what you should do.

Senator LATIMER. The argument you made a while ago was that in applying to the forest-reserve authorities for the privilege of putting on so many sheep you were limited. I can not see, if you had unlimited rights, why you would not own herd enough to eat up all of the forest reserves and prevent the others from going in, if you had the money to buy the sheep with.

Mr. WALSH. Well, there is no advantage in that; everybody else has exactly the same advantage. Then, as a matter of course, a man has business ideas about these matters, and if there are men already occupying a range and there are enough sheep on the range so that he can not get in, it would be idle for him to purchase a band of sheep large enough to take the entire range, because it would, as a matter of course, be a losing proposition to him, and it would be detrimental and disadvantageous to do so.

The CHAIRMAN. I want to state that we ought to get through with this hearing to-night.

Senator LATIMER. I am through.

The CHAIRMAN. I want to give all reasonable time, but we ought to get through before we adjourn; and I hope to do so, even if we hold pretty late.

Senator LONG. I would like to ask the witness just one question: Your theory is that although this bill specifically, in the proviso, says that it shall not restrict or abridge homesteading or taking land under the public-land laws, and although it provides for grazing the stock of bona fide settlers for domestic purposes on the land, yet that it will prevent, in fact, in operation, homesteading?

Mr. WALSH. In effect.

Senator LONG. And interfere with it?

Mr. WALSH. In effect it will be an obstacle in the way of settlement.

STATEMENT OF DR. J. M. WILSON, OF WYOMING.

Doctor WILSON. I will try to be just as brief as possible. I believe I am the last—and they say they usually keep the best to the last, but you will have to decide that later. I want to thank you for the kindness and courtesy that you have shown all afternoon in listening to

considerable repetition and dry detail; and I have seen, by the questions you have asked, that you are trying to get at the real facts.

As to the range being ruined and wrecked, which some of you probably got the idea is the case, it is in places; but in other places it is not so bad as this. I have here the report of the State auditor of Wyoming, and I will turn to the stock proposition and take the last ten years: In 1896 Wyoming had 297,000 head of cattle; in 1906 she had 508,000 head of cattle.

Senator PERKINS. Nearly double?

Doctor WILSON. Yes, nearly double; over 200,000 more cattle. In 1896 the State had 77,000 horses—I am giving you just the thousands—and in 1906, 79,000, an increase of 2,000 head of horses; in 1896 it had 1,391,000 head of sheep, and in 1906 it had 2,874,000 head of sheep.

The CHAIRMAN. More than double?

Doctor WILSON. More than double. Now, gentlemen, this is the assessment return, and, as a matter of course, although United States Senators are not supposed to know it, assessment returns do not represent full numbers.

That much for the range going. Now, they tell you that the range is overstocked. If it is, gentlemen, it is a self-regulating range. As soon as you overstock it, and a bad winter comes, it is not overstocked next spring. There are losses, and heavy losses.

Senator HANSBROUGH. Suppose a bad winter does not come?

Doctor WILSON. If a bad winter does not come the condition of the stock will compel a man to try to protect himself and get rid of part of it, so that he can take care of what he has.

Senator HANSBROUGH. And reduce his herd?

Doctor WILSON. Yes. It is the same proposition, gentlemen, that if some man comes here, for instance, and finds that in Washington there is a good opportunity for a paper mill, he would go on and build that paper mill, and put \$1,000,000 in it, for instance. Some one else, seeing that he was making money, would come in and put up another paper mill; and they would keep on multiplying paper mills just as long as there was anything in it.

Senator HANSBROUGH. And form a trust pretty soon.

Doctor WILSON. That is exactly the condition with the range business. Just as long as they see anything in it they keep adding to it all the time.

I wondered, when nearly all of the others were speaking to you, why it was they did not have wings, because they were all so wonderfully solicitous about the homesteader and the home builder. Read the history of the West with the great companies, and see the immense solicitude they had then, when men were even hung for taking homesteads in ranges supposed to belong to somebody else, but actually belonging to the Government.

Senator DOLLIVER. Does that frame of mind survive out there in any way, as a matter of fact?

Doctor WILSON. Not in a great many cases. In some cases, yes.

The CHAIRMAN. Your position, as I understand it, is the same as the last speaker's—you want to be let alone; you think that this trouble will correct itself?

Doctor WILSON. To a certain extent; but I will go further if you will give me an opportunity.

The CHAIRMAN. Yes.

Senator PERKINS. Is it not a fact that the increase of stock in your State of Wyoming has been brought about in a great measure by dry farming, by alfalfa growing, and fertilizing your ranges, or regrassing them, and making the business more profitable to the individual holder by doing so? In other words, he has cared for his stock, provided for it in the winter, and therefore he has increased his herd?

Doctor WILSON. Not by dry farming. Dry farming has just been experimented with there during the last two years.

Senator PERKINS. Do you raise alfalfa?

Doctor WILSON. Oh, yes; in the irrigated portions.

Senator PERKINS. And alfilerilla?

Doctor WILSON. No; we have no alfilerilla at all. We have tried it and can not raise it.

Senator HANSBROUGH. Ten years ago, I assume that there was a vast area in Wyoming and the other new States where there was no settlement and no stock.

Doctor WILSON. No.

Senator HANSBROUGH. But now that country is all herded and grazed?

Doctor WILSON. No; there was more in Wyoming in this condition: There were large companies that had located maybe 40 or 50 miles from each other, and the cattle were all turned out on the open range; and, as you will notice, it was mostly a cattle country at one time, almost entirely, and the cattle were turned out on the open range. Then they would get together and send out wagons and round up the entire State. Then each man would bring back toward his own range or home what cattle he had, and turn them out on what he called his own range, and in the spring they would brand the calves, and in the fall round-up they would gather the beef; but that was covering the entire State. Now those large companies are being split up, the most of them, and it has gone into smaller holdings, and those men are raising alfalfa and feed for them, and have tried to take care of them in the winter time, and the consequence is that the loss in stock is nothing like as much in Wyoming to-day in places as it was in the past. Yet there are places in the northern part of the State and the central northern part of the State where there is absolutely no water for irrigation.

Senator HANSBROUGH. Is there any probability that within the next ten years the number of cattle and sheep would double as it has in the last ten years?

Doctor WILSON. I think not; no, sir; but they will increase.

Senator HANSBROUGH. They will increase?

Doctor WILSON. As irrigation goes on and men can take care of it, because in the winter time they are bringing them in and taking care of them, where they used to let them run out on the range entirely.

Senator DOLLIVER. Would it damage the stock industry in Wyoming to have the law in respect to fences on the public lands enforced?

Doctor WILSON. It would damage a great many; yes, sir.

Senator DOLLIVER. Then what are we going to do? We are up against the proposition to enforce laws that would ruin the business or damage it greatly.

Doctor WILSON. The only thing that you can do in that matter is to enforce the law and let us get used to it.

Senator PERKINS. The President's letter, which by direction of the chairman was read here to-day, has not been criticised by anyone. I would like you to say what you have to on that point. He is a stock raiser himself.

Doctor WILSON. I would like to criticise Theodore Roosevelt, but not the President of the United States.

Senator PERKINS. But this letter that is before you is a matter for criticism—friendly criticism, of course.

Doctor WILSON. I know; but while I would be perfectly willing to criticise Theodore Roosevelt, I am not willing to criticise the President of the United States.

The CHAIRMAN. Suppose, in the interest of brevity, as it is getting late (I beg your pardon for suggesting it), you state to us just what you are in favor of in the way of legislation—whether you are in favor of any, and if you are in favor of any, what it is. Then we can apply your statements and explanations to the point.

Doctor WILSON. If you will pardon me first, I will do that later.

The CHAIRMAN. Yes.

Doctor WILSON. Now, with regard to the settlement and this bill favoring the homesteader: Gentlemen, that is a mistake. There is no question about that.

Senator LONG. I would like to hear you specifically on that point. I want to know whether it is in the interest of the homesteader or not.

Doctor WILSON. I will tell you plainly, now, if you will just give me time. I will try to answer all questions. I am a little bit slow with it, but I will try to get there.

We were interested in a range in New Mexico; and the forces that have been going on since we commenced starting settling on the Atlantic Ocean are still going on, rolling and rolling. We had a range there in which we owned 90 per cent of the patented land in probably 1,500,000 acres. That 90 per cent would not exceed 12,000 to 14,000 acres that we had patented where the title passed from the Government. In one season we were put out of business there, and where we formerly ran 30,000 and 35,000 and 40,000 head of sheep we can not run 3,000 to-day. We were put out of business in one year.

Senator LONG. How?

Doctor WILSON. By the homesteaders coming in. We made no fight. We said: "Gentlemen, if this is better for dry farming, if you can do better here than we can, come on. We will sell you what we have." And we have gotten out of there. The railroads this year would have gotten all the stock out of there, but we could not get cars.

Senator FRAZIER. Will you explain in what way the leasing proposition here will obstruct or retard homesteading?

Doctor WILSON. One gentleman that is in favor of this bill came to me at noon, and he said: "Now, you get a bill like this through." I told him then that we did that in New Mexico; that in Wyoming they can come in and destroy our range there in one season in the same way. "Yes, but," he said, "you get a bill like this through and they can not do it." I know they can not, too.

Senator FRAZIER. I agree with him; but I want to get your reasons for it.

Doctor WILSON. I know they can not do it.

Senator LONG. Why can they not do it?

Doctor WILSON. They can not do it for this reason: Suppose I lease land now under this bill. There is no place where it restricts the length of the lease. I have leased land, it has been suggested, for ten years. I believe in the original bill—that is the deal.

Senator FRAZIER. There is not any limit in this bill at all. You can lease it for fifty years as far as that is concerned.

Doctor WILSON. Gentlemen, I do not believe there is a Senator here that thinks for a moment of passing a bill like that, that is going to turn over 450,000,000 acres of land to rules and regulations. I can not believe it.

Senator FRAZIER. Now, go ahead with your statement on the other point.

Senator LONG. Suppose we do; how is the homesteader going to be interfered with?

Doctor WILSON. Well, that is just what I want to get at.

Senator LONG. That is what I want to get at.

Doctor WILSON. We get the lease. We get it for the ten-year period. The homesteader comes in here. For instance, here is a township. We have got a lease of it for ten years. There is no homesteader going to come in and take 160 acres of land in the center of that township—that is, a real homesteader or home builder—because he knows he can not exist and do it. The minute he does that he will have to fence that homestead to protect himself, and he is only getting 160 acres to protect himself on, and there is no legitimate homesteader that will do that. There may be men—we have them in the West as you have them in other places—that take up land to attempt to hold up somebody or attempt to get a man in such a position that he becomes a trespasser and he can not help it. Take, for instance, the laws of Wyoming. If a man has that quarter section in the center of a township and our herder lets one single sheep or anything go on there they are trespassers. But we can turn 10,000 head of cattle in there and they can tramp everything out of existence and he has no redress. All he can do is to go and drive them to the edge of the line there, gently and nicely; and he must not do it too roughly.

Senator DOLLIVER. Should not this law provide that these leases should be made subject to the right of homestead entry, with the preferential right in the homestead entryman to share in this range with the original lessee?

Senator HANSBROUGH. It does provide that now.

Senator FRAZIER. Oh, no; it does not provide that

Senator HANSBROUGH. Here, in the last sentence, "Nor shall anything herein be construed to prevent bona fide settlers or residents from grazing their stock used for domestic purposes on the public lands affected hereby"—that is, affected by the lease.

Doctor WILSON. I beg your pardon, Senator, that is these milch cows or saddle horses.

Senator LONG. What are "domestic purposes?"

Senator PERKINS. That was explained while you were out, Senator.

Doctor WILSON. It is two or three milch cows, and a work horse or two, and a saddle horse.

Senator DOLLIVER. But should we not put a provision in there giving him the preferential right to share in the lands covered by the lease? And would he not be in a better shape, with the thing regulated by law, than he would be to go up single handed against the cattle company that had occupied this land by mere force?

Doctor WILSON. If you pass this bill, giving the homesteader that goes there the right to his 160 acres of land and give him 10 sections besides, then find how many of those are in favor of it that are now advocating this bill. Give him enough to exist on; put it in the bill. Give him 6 or 10 sections of land, and then he will have some chance to do something. With the 160 acres of land he has no chance.

Senator DOLLIVER. You think that would destroy the enthusiasm?

Doctor WILSON. For the homesteaders? Decidedly. [Laughter.]

Now, another thing that I did not know until the gentleman from Montana was talking: To show you how a thing may work in different parts—now, Mr. Pinchot is looking at me, and he and I do not agree very well, and I will have to attempt to call him down in this thing. This gentleman tells me that sheep in Montana run five months (I believe that is what he said) for 6 cents a head on the forest reserves. In Wyoming, if I recollect, last year the sheep man paid 7 cents a head for two months.

Mr. PINCHOT. I will have to refer you to Colonel Bell on that.

Doctor WILSON. Colonel Bell, you remember, was on the S—— Valley, and the reserves were just started then; but I will ask Mr. Pinchot if 7 cents was not practically the average in Wyoming last year?

Mr. PINCHOT. No; five.

A GENTLEMAN. It seems the disadvantage is in our favor.

Doctor WILSON. My understanding from Mr. Potter was that at Rock Spring the average was 7.

Mr. PINCHOT. This year.

Senator DOLLIVER. Maybe the pasture was a little better.

Doctor WILSON. But then they would only eat so much, and naturally they had to travel a little farther. Now, even say 5 cents. In Montana the sheep men were charged, on the forest reserve, $1\frac{1}{5}$ cents a head per month. At 5 cents in Wyoming they were charged $2\frac{1}{2}$ cents a month. I submit to you if that is fair.

Senator DOLLIVER. We have had great tributes to the fertility of Albany County in Wyoming here.

A GENTLEMAN. May I say just one word? Five cents was the minimum allowed by the regulations.

Doctor WILSON. Five was the minimum?

The GENTLEMAN. Yes, sir.

Doctor WILSON. Now, there is the condition that you have. If you put this thing, gentlemen, in a condition where you are building up a great army of Federal employees—an army larger, I believe, than any other branch of the public service, with the exception of the postmasters—you will be building up such a power that you will not know where it is going to end, or what it is going to be used for. Mr. Pinchot and other ones that are with him, that are striving all they can, and honestly striving to do their best along this line, are not going to live forever; and if they did, political fortunes may change, and some other parties may come in; and to turn over an entire empire to rules and regulations is a dangerous precedent.

Senator FRAZIER. Do you not think the effect of this would be to check the homesteading in that entire country if it was put under this lease system?

Doctor WILSON. There is no question about that in my mind—no question.

Senator PERKINS. Do you think, Mr. Wilson, that it was wise policy on the part of the Government to have forest reserves set apart—to take certain areas of our country which are being denuded of timber and set aside for forest reservations?

Doctor WILSON. I certainly do where they are forested areas, but not where the areas are not forested.

A GENTLEMAN. Where they are forested, you mean?

Doctor WILSON. No; where they are not forested—that is, where there is no timber on the land I do not believe it ought to be set aside as a forest reserve.

The GENTLEMAN. That is right.

Doctor WILSON. Some gentleman asked me—it was the chairman, I believe—what I would suggest. It was suggested to us at the Salt Lake convention that we were going to have this fixed anyhow, whether we wanted to or not, and the only thing to do was to get into the wagon and help drive. Now, then, if we have got to get into the wagon and help drive, my idea would be this:

From time immemorial we have had the use of this grass in the States—that is, the people living in the country. They have had it free of cost. They have had it without charge, and in a great many places things have so adjusted themselves now that all trouble is over. People have gotten used to the condition. But if I were going to change it, I would turn simply the grazing privilege over to the State. We have a land board in Wyoming that has been very, very successful in handling and leasing its land, and yet they have a large tract of land that is not leased, thousands of acres; but it is in such localities and scattered so, school sections, and so on, that it controls no water, and they lease for the water. I would simply turn the grazing privilege over to the State and let them handle it as best they could. They are on the ground. Most of the States have land boards. Let those land boards take them up. Then I would leave the land laws exactly as they are, and say that no lease could be made or no grazing privilege given that would not permit a man to go on there at any time that he saw fit and take up a homestead, or any of the other methods that there are for acquiring Government land. That would be my idea.

Senator DOLLIVER. How would that avoid these obstructions to homesteading that you have enlarged upon?

Doctor WILSON. My friend, right to-day I believe the records in the land office will show you—I do not want to talk for other places; I only know what is happening in New Mexico—I doubt whether there have ever been as many homesteads taken in the Territory of New Mexico in any three years as have been taken in the last year and a half. They are coming in all the time. There is no restriction; and if you do not leave it as it is, let the States, where they see fit, take charge of the grazing privilege where there is trouble. Now, there are regions where there is trouble—there is no question about that—and very serious trouble. There are other regions where there is no trouble. There are other regions where the men have gotten

together and settled all their difficulties and are living together in kindness and harmony. It hardly looks fair to take a community that has worked out its own salvation, that has taken this condition that has existed from time immemorial and worked it out, and punish it simply because there is some other community that has not reached that stage of civilization, but still must quarrel. It seems to me that it is hardly fair to punish the people that have been law-abiding and have come around and adjusted all these difficulties themselves.

Senator DOLLIVER. And divided the domain among them?

Doctor WILSON. Yes, sir; that is it—divided it up among them [laughter]—just exactly.

The CHAIRMAN. Is there anything further?

Doctor WILSON. I do not believe that I care to say anything else, unless some of the gentlemen have some questions to ask.

Mr. TAYLOR. I just wanted to ask Doctor Wilson—I have listened to his statement—whether, in making that comparison between 1896 and 1906 in the quantity of stock that the State was supporting, he does not think or know that in 1896 the State was a little bit understocked, while to-day men who have been as long in the business as he is think it is overstocked, and that the great cause of this increase in the stock has been in the sheep? I mean the very profitable increase of the business in the last few years and the very large influx from the outside—not the natural increase, but the very large amount they have brought in from Oregon, Washington, Montana, and other parts; and is it not true that the increase in the cattle has been caused largely by the taking up of ranches and irrigating them and keeping more cattle, being able to grow more forage and keep more cattle on the same amount of ground?

Doctor WILSON. Take the ten years previous, Mr. Taylor, and the number of sheep was a fraction under 300,000 head. They increased from 300,000 up to two million eight hundred and some odd thousand. Then there were imported some 1,800,000 last year, and there is no question but that to-day there are 4,500,000 sheep in the State of Wyoming, and those sheep have increased all the time, right along. Wyoming has never gone back in her sheep. She has shifted back and forth in her cattle badly, and in the early days, as Mr. Taylor knows, when they had the big cattle companies, the assessment numbers were greater in proportion than they are now, and Mr. Taylor knows why—because they had to draw money from somewhere else, and the managers would report the cattle dead, and so on, and they could not draw the money.

The CHAIRMAN. Have you concluded your statement?

Doctor WILSON. I am through.

The CHAIRMAN. The President appointed a committee on this matter. Is any member of that committee present that wishes to be heard?

Senator LONG. I would like to ask Doctor Wilson one question. To what extent has the homesteader, the small ranchman, been affected by having the market from these large cattle companies for his surplus raised on his farm?

Doctor WILSON. Where there are large cattle companies, as a matter of course they buy part of his product. As for the old-time cattle companies, remember, now, that there has been an evolution, a transformation. Some of the cattle companies now have good

ranches, but the old-time cattle company had nothing but what they called a home ranch, and they bought up, as a matter of course, what the men would raise, just as the sheep men do to-day in the same territory. They buy up all that they can get from these small ranches, and it has made the value of the ranches more.

The Chairman asked everyone else except me, I believe, what his occupation was, and I wanted to answer that when he asked me, but he did not. I was going to answer him that it was that of a physician and a stockman and a home builder; because I will challenge any man here, I do not care who he is, to deny that it is a fact that a few of us sheep men in central Wyoming are doing more to-day to build up homes and to make homes than any of the homesteaders that are coming in, because we are making it possible for them to come in. We asked the United States Reclamation Service to develop an irrigation project that was there, next to a beautiful town. They said it was too small for the Government to touch. We have taken that up ourselves. There is not a man interested in it but what is a sheep man, and three sheep men lose their lambing grounds by doing it; and yet we expect to spend over \$300,000 on it. We have over \$50,000 or \$60,000 spent already, and we expect to complete that work in the next year and make homes for from 250 to 300 families.

Senator HANSBROUGH. That is being done by private enterprise?

Doctor WILSON. Yes, sir. It was too small for the Government; 200 or 300 families were not enough.

The CHAIRMAN. Is there any member of the committee appointed by the President who wishes to be heard?

Mr. JASTRO. Yes, sir.

STATEMENT OF H. A. JASTRO, ESQ., OF BAKERSFIELD, CAL.

Senator LONG. What is your post-office address and your business?

Mr. JASTRO. My address is Bakersfield; my business is the stock business, and has been for forty years.

I am one of the appointees of the President to confer with the lands commission as to the best method of improving and disposing of the range. I wish to say to you, gentlemen, that I had the amendment presented to me this morning, and I am fully in accord with it; and I say so from my experience in California and New Mexico and Arizona.

In California we are rather peculiarly situated. We have not very much vacant land that is worth fighting over, except the lands in the high mountains, where there has been no forest reserve created, or out on the desert, which can only be utilized during certain seasons of the year, and only then when we have good rainy seasons—that is, when the grass retains sufficient moisture so that stock can do without water for three or four months in the year.

I believe that pretty much every man in California would be willing to see the public ranges controlled by the Government; and I say this for the reason that our experience with the forest reserves that we created in California has been that since the formation of the forest reserves in the State of California our rivers have given us nearly 25 per cent more water to irrigate lands with. It has kept these roaming herds of cattle and migratory bands of sheep out of

the mountains and out of the plains. They have not tramped our country up; they have not destroyed our native grasses, so that our country is being reseeded; and to-day California carries more stock than she did before there was any forest reserve. That is, I am speaking now of the amount of stock she carries outside of the places where forage is provided for stock.

We find that, at least in my judgment, if the Government will take hold of all the public ranges now, it will make the business a permanency. A man would know what he could do in the business. He would not be troubled and everlastingly harassed by these migratory people that come and go. Why, gentlemen, I have known thousands and thousands of sheep in the State of California to start at San Diego, say, as soon as the rains would start (and of course in that country just the minute it rains the grass comes up), and they would drive their sheep from San Diego clear up to San Francisco on the west side of the San Joaquin, and there they would market them. They pay no taxes to any county; they generally land in San Francisco before tax-paying time comes.

Senator FRAZIER. What is the objection to that? What right has the other man—what greater right has he than the man who drives his sheep on the public domain?

Mr. JASTRO. I do not claim, Senator, that he has any greater right, but I do claim that if the bona fide stockman in such a country were permitted to pay the Government or anybody else any reasonable amount to lease those lands it would make his business a permanency, whereas under the conditions then existing there was no permanency in the business. We never knew when we would have any grass. If we started out in the spring of the year and had grass, some of these roaming Frenchmen would come along there with hundreds of thousands of sheep and go along and feed it out clean and slick, and we would have nothing left for either summer or fall range when they came out of the mountains.

Senator LONG. Where is your range now; in California?

Mr. JASTRO. Yes, sir; California and Arizona.

Senator PERKINS. Your land in California, though, you have bought and paid for?

Mr. JASTRO. Yes, sir; every acre of it.

Senator PERKINS. I know that you have not any public land.

Senator LONG. How is that in Arizona?

Mr. JASTRO. In Arizona we own a very little land, but we use the public domain; and so in New Mexico.

Senator LONG. How much land have you under fence there?

Mr. JASTRO. Where?

Senator LONG. In Arizona?

Mr. JASTRO. We have about 20,000 acres.

Senator FRAZIER. Is that on the public domain?

Mr. JASTRO. No; we fence no public domain. We have about 25,000 acres under fence in Arizona, and quite a body of land in New Mexico, and also in California, but those lands we own absolutely. But we have used, and are using now, a great deal of the Government land. There is no doubt about that. I think we are entitled to it just as much as anybody else, but not to keep any homesteader out or any settler out.

Now, take our proposition in California. It is our business to bring settlers in there. We want to sell our lands. The land is getting to be valuable for the stock business, and we invite settlers to come in. We sell them land. We have inaugurated one of the greatest systems there is in the United States, probably, in the way of private irrigating enterprise, built with our own money. We asked no aid from the Government or anyone else, and I believe we have the most complete system of irrigation there is in the United States to-day. Mr. Newell, I believe, and several of the gentlemen connected with the Government here, can tell you all about that part of it.

Senator LONG. What is the name of the company that you represent?

Mr. JASTRO. The California Land Company.

Senator PERKINS. Tell the committee, for their information, what a splendid domain you have there, and the number of acres you have under cultivation. I would like to get in a little advertisement for California.

Mr. JASTRO. I am afraid, Senator, that if I should tell that to these gentlemen they might think we were monopolists.

Senator PERKINS. It is the most wonderful domain you have there.

Senator LONG. We suspect that already; so you had better explain it so that we will know that you are not.

Senator LATIMER. There are some of us who do not know exactly how you represent the President in this matter.

Mr. JASTRO. I will tell you how I represent the President. I was appointed by the President to confer with the lands commission. I do not represent the President. You probably misunderstood me, Senator. The President appointed some practical stockmen throughout the United States to come here and confer with this lands committee and devise the best methods possible to improve it and pass a law for the leasing of the public domain, so far as in our judgment we could find any law for doing it. That is why I have come here.

So far as our enterprise in California is concerned, we went in there when it was one of the worst deserts in the world, I guess, and we utilized the river—the Kern River. We put weirs across the river; we built canals—hundreds and hundreds and hundreds of miles of canals. We spent in our irrigating streams alone a little over \$4,000,000.

Senator LATIMER. How much land have you in all?

Mr. JASTRO. About 500,000 acres.

Senator LATIMER. Did you buy that from the Government?

Mr. JASTRO. It is mostly all Spanish grants, with the exception of the offsections, that we bought from the Southern Pacific Railroad Company. We induced settlers to come in there; we furnished them water so that they could build homes there, and make our own land, of course, more valuable.

But I do not believe, gentlemen, coming back to the matter of leasing lands, that there is a stockman on the face of the earth to-day who has had any more experience than I have had. I have been in the sheep business for years. We are in the sheep business to-day; we are in the cattle business; we are in the horse business; we are in the hog business. There is not any kind of stock on God's footstool that we do not raise. I have been on the trail from California to the Missouri River with sheep—the first man that ever undertook to do

it. I have driven sheep from Kern County, Cal., clear to the Missouri River, to Helena, Mont. That was during the drouth in California. I have seen California when, in 1876, we had 12,000,000 sheep in the State of California. Those sheep were mostly owned by these migratory people. Not one-tenth of them at that time were owned by the bona fide settlers of the country. You probably remember that, Governor.

Senator PERKINS. I was in the legislature at the time, you remember, when Fowler and Knox and Clark and Miller and our other friends were for us.

Mr. JASTRO. Yes; that is right; I remember that quite distinctly. Those men were traveling throughout the State exactly as I have told you. They not only drove their sheep in there and overstocked our country and fed out our grasses and stamped them out, but they ruined every permanent business then established in the State of California, and I want to say here that I defy any gentleman here to contradict my statement.

Mr. HANSBROUGH. Does that go on now?

Mr. JASTRO. No, sir; it does not go on now in the State of California, except in a limited way.

Senator LATIMER. Do you mean you drove those sheep to Helena, Mont., from California?

Mr. JASTRO. Yes, sir.

Senator LATIMER. And found pasturage along the way sufficient for them?

Mr. JASTRO. I lost a good many sheep, but I got most of them there. It was a matter of life and death with us. We had to get what we could to the Missouri River and sell them for a good price or else let them die at home, and I chose the first.

A GENTLEMAN. Our State was originally stocked in that way, Senator.

Mr. JASTRO. I am the first man that drove them there. I know that country as well as anybody, I can tell you.

Senator LATIMER. Then you were doing the very thing then that you are condemning in the fellows that are roaming up and down through your country now?

Mr. JASTRO. I could not help myself. [Laughter.] I see the evil of it now, Senator. [Laughter.]

Senator PERKINS. Then you lost 50 per cent of your sheep in driving them, and it was only by doing what you did you saved the remainder?

Mr. JASTRO. I saved what I could—that is all. I was compelled to go there, Senator.

Senator LATIMER. Will not the lease system which you are proposing have the effect of causing those sheep to die as your sheep died, for instance?

Mr. JASTRO. No, sir; because the country will not be overstocked. There will not be these migratory fellows going up and down the country with them. You will know exactly what you can do. If we can not keep but 10,000 sheep, we can keep 10,000, but we will have feed for those; whereas heretofore we were compelled to overstock. If I did not overstock, my neighbors did. If I had a water hole out in my county, if I did not have enough sheep to eat off the grass on both sides of the creek, some Jones or Brown or Smith would do it. Every

man was trying to get all there was in sight. I was no better than anybody else.

Senator HANSBROUGH. Under the rules and regulations prescribed in this proposed amendment the number of sheep will be limited to the acreage?

Mr. JASTRO. To the acreage. So it should be. I believe that is the only salvation for this country, to make the stock business a permanency, through Government control. That is my judgment, gentlemen.

The CHAIRMAN. Is there anything further from this witness? If not, is there any other of the President's committee present?

(A gentleman stated that Mr. Stewart, of South Dakota, Mr. Barnes, of New Mexico, and Mr. Garm, of Idaho, were present and wished to be heard.)

STATEMENT OF F. M. STEWART, ESQ., OF BUFFALO GAP, S. DAK.

Senator PERKINS. What is your profession?

Mr. STEWART. Stockman.

I do not know that I can add anything to what has already been said. In South Dakota we differ from some other western States. Half of our State is free range, where cattle are allowed to roam at will. The other half is farm land under the fence law. The part of the State west of the river is now requesting a leasing proposition—a bill of some kind whereby it can legalize the use of this Government land that is now vacant.

On the 1st day of last July there were 8,600,000 acres of Government land unfilled on lying west of the Missouri River in South Dakota. If that was the case at that late date, it is fair to presume that over half of that land will never be filled on. It is within rough breaks on the banks of the various rivers that pass through there and goes along adjacent to the agricultural land, but is not suitable for tilling for agriculture. We would like to be in a position where we can lease that land and get the use of it, and not be considered as trespassers.

I am not much of a public talker, but if you have any questions to ask me, I will try to answer them.

Senator HANSBROUGH. Is the western part of that State settling pretty rapidly with homesteaders and others?

Mr. STEWART. Very rapidly. Since those two railroads started to build across there it has been settling very rapidly, and the filings are something tremendous. I would not pretend to say what they are.

Senator LONG. Are the homesteaders coming into that country?

Mr. STEWART. Oh, yes, sir.

Senator LONG. Will they not be interfered with by this bill?

Mr. STEWART. I do not think so.

Senator LONG. Why not?

Mr. STEWART. I think that a homesteader has always a right to take up a piece of Government land.

Senator LONG. Yes; but how about his stock?

Mr. STEWART. It will depend entirely on what a homesteader has. The majority of the homesteaders that are going in there have no stock besides their domestic animals, their farm teams, and milch cows. There is a vast difference between a homesteader and a set-

tlar. The majority of the people that are going into that country are simply settlers. Their place of residence is in Sioux City and different other places. They are going in there to prove up their land and sell it. They are not taking up the land for the purpose of making a home.

Senator DOLLIVER. That is a fraud of the most vicious character on the General Land Office.

Senator HANSBROUGH. You say a majority of the people going into South Dakota are doing that?

Mr. STEWART. In my judgment; yes, sir.

The CHAIRMAN. What is your business—cattle or sheep?

Mr. STEWART. I have both; also horses.

Senator HANSBROUGH. That is not the case in North Dakota.

Mr. STEWART. I do not know about North Dakota.

Senator DOLLIVER. That would throw a good deal of light on our discussion on that subject, would it not? It would go to vindicate the Secretary of the Interior.

The CHAIRMAN. Is there anything further? You agree, I understand, mainly with the last witness?

Mr. STEWART. Yes, sir.

STATEMENT OF MARTIN GARM, ESQ., OF SUGAR, IDAHO.

Mr. GARM. I am a farmer and stock raiser. There are two propositions here that I wish to speak upon, gentlemen. One is under the law as we have it, or as we had it, and the other is under the law as administered by the Government under the forest-reserve system.

When I first saw Idaho not one of the present towns of Pocatello and Idaho Falls and all those interior towns was in existence. There was not even a log cabin at any of them, with the exception of Idaho Falls; and there was no railroad. There was nothing but a few Indians and a few freighters freighting to Virginia City, Mont.

When I went to live there a few years ago there was plenty of open range for everybody. Everybody prospered. I went and bought out a homesteader that had located there, and been one of the first—he was, in fact, the first locator that located in what is now Freemont County. I purchased a farm from him that was worn out. We had not been long there in the business before we found that there were people coming in from Utah with thousands of head of sheep. They did not own a foot of land. They ran right into our fences, drove our own sheep off the range, and said, “We don’t give a damn for your country; all we want is the grass that is here.”

Now, we were in a bad situation there. We had gone there and made homes with the intention of living there and spending our lives there. We found this condition forced upon us. Then the forest-reserve system came on and took all of our grazing land, and we thought, “Well, now, we are up against the real thing, and the best thing to do is to sell and get out of here. We can not live.”

But let us see how that has worked. On that farm that we had there the most we could raise was 60 bushels of oats to the acre. Year before last our whole entire crop averaged a little better than 101 bushels to the acre. Last year that entire farm averaged a little better than 102 bushels to the acre. And why? Simply because when winter time comes we feed our entire herd upon our own land.

We raised last year over 6,000 bushels of grain and nearly 500 tons of hay on 240 acres. We figure on feeding our sheep ninety days in the year.

What is the result of this? Fremont County is the youngest county in the State of Idaho. We have within a few acres of more acres of land in that county alone than the whole State of Utah has in one county. We have more miles of irrigating ditches and canals than the whole State of Utah. Why? Because the people are coming there and building homes. The forest-reserve system comes in and says, "Gentlemen, if you are a homesteader you have a right to go in here, and we will see," as they told myself and my boys and my neighbors, "that you are protected." We could not done it if it had not been so.

Now let us see about the lease proposition and how it is going to work. There are thousands of these homesteaders coming in, gentlemen—your boys and other men's boys. Look at all these towns that are overcrowded. If you send a man out here in the western country, and he is a good, live man and wants to make a start, they will say, "You can get a piece of land here, but the rest somebody else has got." That man goes on here, and he wants to make a location on 160 acres of land.

Gentlemen, there is one word in the Burkett bill there, and only one word, that is a dangerous and a bad word. It is like the case of the man here in the center of this section of land—he has no outlet. Do not make it a lease in acres; make it per head, and give that man, no matter who he is, a chance when he comes in there and makes his application to the forest division, and says, "I have so many head of cattle, and I want a place to run them this year," so that they will say, "All right, Mr. Man, here you are." Whenever the amount of cattle and sheep come up to the maximum, and they say, "This is all that you can run on our range here," the big man will have to cut down and the little man can build up, and that will go on until they all have the same number of cattle and horses apiece, everyone of them. Then, if there are still new men coming in, the bigger ones will have to cut down, and you will give the little ones a chance.

Senator LONG. What is that dangerous word?

Mr. GARM. Have you the bill there?

Senator LONG. I have.

Mr. GARM. It is not in the amendment; it was in the original bill. What I had reference to was this: Supposing that a man goes in there and he owns forty or fifty thousand acres of land already. Say he owns 20,000 acres. That gives him an area there of 12 miles square. He can well say: "We don't give a damn what the Senate passes or what the Government passes or what they try to do. We are already fixed." But what about the hundreds of thousands of other men that are not already fixed and are born in the world? and, gentlemen, it is not there fault. They are American citizens and have a right to the public domain now, to-day, just as much as I had ten or fifteen or twenty years ago.

That is the stand that I take on this proposition, and here is one thing that is going to catch them: We will say, for instance, that a man goes to work here, and he has the money, and he fences off a strip of land 12 miles long, and it costs to fence the 160 acres about \$500—the very best a man can do. He comes in here and he says: "I will

lease this land for ten years. Now, you can come in here on these conditions: That you shall pay, and it shall be cash, for your proportion, your amount per acre, of all the improvements that are made upon there." That is what is going to get the poor man. He can not do it. Everything he has is hauled in on a wagon, and there have been thousands of homesteaders that have done that, gentlemen, in our western country. They have all the time kept going West, going West, until they have struck the Pacific Ocean, and now they are coming back, and they have got to have homes, and we have got to provide for them. We want to ask you to make it so that all can have an equal chance, and not one man have it all.

The CHAIRMAN. The matter you criticize is not in the amendment.

Mr. GARM. No, sir; it is not in the amendment.

The CHAIRMAN. Have you any criticism of that?

Mr. GARM. Not in here, I have not—no, sir; none whatever.

Senator LONG. What do you say about this first amendment—about the proviso there on page 2? Is that sufficient to protect the homesteader?

(Mr. Garm examined the bill.)

Senator LONG. I mean at the end of the section?

Mr. GARM. Yes, sir; that is all right. It is all right here, if you place the regulation of this matter in the hands of the Forestry Division. We have lived and are now living under the Forestry Service, gentlemen. There are probably in this end of our country 80,000 sheep, now held by men there to the extent of 200, 300, 400, 500, and 1,000 head apiece. They go to the Forestry Division and make application, and say that they need a permit to run so many head of stock, and it is granted them.

There is another thing you want to provide against there. We will say that I am there, and there are three others that are there, and we want to control this grazing ourselves. Mr. A, Mr. B, and Mr. C come in there. They are little men, and they have 1,000 sheep apiece; and they make application to put them on the reserve. We get together, and we make life so miserable for those men that they are obliged to sell; and we offer them probably a good price to get out of the business. We do that with the object of having their rights transferred to us. Make it so that the leases are not transferable, so that whenever a man sells his stock, or another man buys it, that is the end of it; but if he wants to get rid of the stock again, make it so that he still has the same privilege to go in with the other man. If you do not, it will only be a matter of a few years before the little fellow will be out, and the big man will be in, with the advantage that he will have the reserve back of him, and the little man will have nothing to ask for.

That is, with regard to the lease as against the permit. I would be in favor of the permit at all times and under all circumstances, making the same not transferable, and allowing any new man that comes in to have a right to go in and get his per capita.

I do not know that I wish to take up any more of your time, gentlemen.

STATEMENT OF WILL C. BARNES, ESQ., OF LAS VEGAS, N. MEX.

Mr. BARNES. Mr. Chairman and gentlemen, I will only take up your time for just a moment.

There is one thing about this public range question which all of us seem to overlook, and that is the ultimate end of the range. When I first went to Arizona, I went there as a soldier in the United States Army. I took my money and invested it in a little bunch of cattle. This was in 1879. The whole country was a virgin country. We stood off the Indians and Apaches and made our homesteads there. I filed on my first piece of land there. My nearest neighbor was 30 miles away from me. We had a virgin country; but in a few years—in two or three years—other men came in, until my next neighbor was a mile from me. In six or seven years the country had settled up to such an extent that it was overstocked. It got to a point where, in 1886, the outfit that I own branded that year 2,500 calves, and the next year we branded 275. We lost between 6,000 and 7,000 head of cattle that winter. We were all overstocked.

We went to our neighbors the year before, and said: "Here, we have got too many cattle." We tried to get a pool, and agreed to sell off so many animals. Some would agree to cut down their holdings to this extent, and others would not. On top of that came 35,000 head of sheep from New Mexico, that were owned over there—nothing in the world but a bunch of burros—and herd after herd came across our ranges and swept them clean. We fogged them from the tops of the hills with long-range Winchesters, and we dealt them misery; but they ate the grass and went down, clear down to the San Francisco Mountains on the west. They ate them out there, and in the fall they swept back on us, and we dealt them some more misery; but they got the grass, and that winter our cattle died. If I had a little piece of land that I had saved to pasture my saddle horse for the winter, the first man that came along and saw it, whether he was a sheep man or a cattleman, would jump a lot of stock in there to eat it up. So it got to a point where we were all afraid to save winter grass. We knew if we did not get it some one else would.

The result was, gentlemen, that I left that country. We starved out there, and I moved to New Mexico. When I went in at the height of our business in Apache County, Ariz. (it is in the northeast corner), we had 150,000 cattle on the assessment rolls of that county. To-day there are but 5,000. When I left there eight years ago there were no cattle there. We had to ship them all out. The sheep men starved to death. The country was a ruin. We had tramped it and eaten it out until there was nothing there.

Then the forest reserve stepped in, and they took control of the mountain ranges. We had a pasture in the mountains there that was as beautiful a country as God ever looked on. We left it a desert, between the sheep men and the cattle men. We went in there as soon as the snow left—we were so afraid some one would get ahead of us—and we stayed until the snow drove us out, for fear some one would come in there behind us. Now, since the forest reserve took charge of that, there is more grass there to-day than there ever was, and the sheep men—there are nothing left but sheep men; the cow men starved out—are getting the best grass they ever had. And it is my firm belief that if this denuded prairie country and range country

could be put under this same kind of management the grass would come back again and you would make two blades of grass grow where one grows now.

That is all I have to say, gentlemen, unless you desire to ask me some questions.

Senator HANSBROUGH. Is the process of "dealing misery" down in that country through the Winchester?

Mr. BARNES. It was in those days, I am sorry to say. I will admit I have sat on top of a hill and shot just as long as I could reach a band of sheep; and it got so at one time that for a sheep man to see a fellow with a pair of "chaps" on was a signal for war.

Senator HANSBROUGH. You call that "fogging," do you?

Mr. BARNES. Yes, sir; and they did the same. It was a give-and-take game.

Senator LONG. Are there any homesteaders coming in there now?

Mr. BARNES. It is not a homestead country. Outside of the little water courses and the springs, they could never live there; it is a desert pure and simple; it can be nothing else.

The CHAIRMAN. Mr. Garm wishes to add a word to his statement.

FURTHER STATEMENT OF MARTIN GARM., ESQ., OF SUGAR, IDAHO.

Mr. GARM. There was one point I did not mention—the duration of the lease. Now, gentlemen, it looks reasonable on one side that a man would like to get a lease of land for just as long as he could; but, looking at it from the standpoint of the new man coming in all the time, if I could have the running of the range I would say: "Mr. Man, neither you nor anybody else gets a lease of land for longer than one year, with this understanding: That as long as you are in the cattle or the sheep business or any other business you have got just as good a right as any other man upon the face of the earth, and your rights shall be respected." But supposing that a man makes a lease for ten years and buys stock up to the limit of his money. This year he may be in business; next year he may not be in business at all. He may wish to sell all that he has and go out of business, and still his lease is hanging over him; and it prevents new men, homesteaders, coming in. I say when you lease a man a certain tract of land for ten years, make each lease for one year, with the understanding that he has a right to come in again if he so wishes with any number of stock that he has.

FURTHER STATEMENT OF J. M. BOARDMAN, ESQ., OF HELENA, MONT.

Mr. BOARDMAN. Gentlemen, I want to correct what I think was perhaps a misapprehension or a misunderstanding in the minds of some of you Senators regarding Montana. Mr. Walsh seems to have directed his remarks more particularly to the forest reserves of Montana. Montana is a pretty large State. We have over 94,000,000 acres of land in Montana, and the forest reserves of course are confined largely to the mountains. We have on the outside what are commonly termed the cow counties, or what is largely at the present time open range country. The mountains where the forest reserves have been created are at the present time the most thickly populated,

and it is these open ranges in the northern part of the State where the settlers are now coming in and looking for homes. That is what we call, principally speaking, the unappropriated grazing lands of the State. I think Mr. Walsh will bear me out in that statement.

We have, according to the last report, over 38,000,000 of unsurveyed lands in the State of Montana and over 21,000,000 of lands that are appropriated. So that you can see that the large proportion of the unappropriated lands is in the northern part of the State, on what are termed the flat prairie lands of the country.

The CHAIRMAN. Secretary Wilson and Mr. Pinchot are present. Mr. Secretary, have you anything to say?

Secretary WILSON. Nothing. Mr. Pinchot perhaps may want to say something.

Mr. PINCHOT. I think there is nothing, Mr. Chairman, unless there are some questions.

Senator DOLLIVER. Have you carefully examined this bill?

Mr. PINCHOT. I have. There are two slight amendments which I would like to recommend. One of them is to add that the Secretary should have the right to organize grazing districts and that it shall be unlawful to graze except under the rules and regulations only on the grazing districts, because it is impossible to take charge of the whole thing at once.

Senator DOLLIVER. Would it hurt this bill to make more specific provisions respecting the preferential rights of actual settlers?

Mr. PINCHOT. Not a bit; because I know I speak for the Secretary when I say that so far as the administration of the matter in the Department of Agriculture is concerned the settler would have every preference right straight through. I think it would be a good thing.

Then it was suggested at the meeting yesterday that a provision should be embodied in the bill turning over the proceeds beyond what was necessary for administration to the States in which the fees were paid, and a provision to that effect has been drawn.

Senator HANSBROUGH. I suggest that you take the amendment and perfect it in accordance with your view and have it ready here, with duplicate copies for the committee.

Mr. PINCHOT. At what time, Senator?

Senator HANSBROUGH. Whenever they want to meet. I suppose we will meet to-morrow morning.

Mr. PINCHOT. Then, if I may collect as many copies as possible this evening—perhaps Mr. Holbrook can let me have some copies.

Senator HANSBROUGH. You will be able to get a lot of them in the document room right out here.

Mr. PINCHOT. Yes—thank you; I will do that, Senator. I want to make it perfectly definite and clear that the fears which have been expressed here that a bill of this kind would interfere with the settlement of the country, with homesteading, are absolutely unjustified.

Senator LONG. I hope you will redraft that proviso and make it more specific. I should not favor this bill with the proviso in that form.

Mr. PINCHOT. You prefer having it more specific?

Senator LONG. I want it more definite, so as not to interfere at all with homesteading.

Mr. PINCHOT. I will do that.

(The committee thereupon adjourned.)

